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ACTS ADOPTED UNDER TITLE V OF THE EU TREATY

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(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

REGULATIONS

COUNCIL REGULATION (EC) No 1176/2008

of 27 November 2008

amending Council Regulation (EC) No 713/2005 imposing a definitive countervailing duty on imports of certain broad spectrum antibiotics originating in India

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2026/97 of 6 October 1997 on protection against subsidised imports from countries not members of the European Community [1] (the basic Regulation), and in particular Articles 15 and 19 thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

A. PROCEDURE

I. Previous investigation and existing measures

(1) The Council, by Regulation (EC) No 713/2005 [2], imposed a definitive countervailing duty on imports of certain broad spectrum antibiotics, namely amoxicillin trihydrate, ampicillin trihydrate and cefalexin not put up in measured doses or in forms or packings for retail sale (the product concerned) falling within CN codes ex 2941 10 10, ex 2941 10 20 and ex 2941 90 00 originating in India. The rate of the duty ranges between 17,3 % and 30,3 % for individually named exporters with a residual duty rate of 32 % imposed on imports from other exporters.

II. Initiation of a partial interim review

(2) Following the imposition of the definitive countervailing duty, the Government of India (GOI) made submissions that the circumstances with regard to two subsidy schemes (the Duty Entitlement Passbook Scheme and the Income Tax Exemption under Section 80 HHC of the Income Tax Act) have changed and that these changes are of a lasting nature. Consequently, it was argued that the level of subsidisation was likely to have decreased and thus measures that had been established partly on these schemes should be revised.

(3) The Commission examined the evidence submitted by the GOI and considered it sufficient to justify the initiation of a review in accordance with the provisions of Article 19 of the basic Regulation. After consultation of the Advisory Committee, the Commission initiated by a notice published in the *Official Journal of the European Union* [3], an *ex-officio* partial interim review of Regulation (EC) No 713/2005.

(4) The purpose of the partial interim review investigation is to assess the need for the continuation, removal or amendment of the existing measures in respect of those companies which benefited from one or both the changed subsidy schemes where sufficient evidence was provided in line with the relevant provisions of the notice of initiation. The partial interim review investigation would also assess the need, depending on the review findings, to revise the measures applicable to other companies that cooperated in the investigation that set the level of the existing measures and/or the residual measure applicable for all other companies.

III. Investigation period

(5) The investigation covered the period from 1 April 2006 to 31 March 2007 ('the review investigation period' or 'RIP').

[1] OJ L 288, 21.10.1997, p. 1.
[2] OJ L 121, 13.5.2005, p. 1.
[3] OJ C 212, 11.9.2007, p. 10.

IV. **Parties concerned by the investigation**

(6) The Commission officially informed the GOI and those Indian exporting producers who cooperated in the previous investigation, were mentioned under Regulation (EC) No 713/2005 and were listed in the notice of initiation of the partial interim review, that were found to benefit from any of the two allegedly changed subsidy schemes, as well as the Community producers of the initiation of the partial interim review investigation. Interested parties had the opportunity to make their views known in writing and to request a hearing. The written and oral comments submitted by the parties were considered and, where appropriate, taken into account.

(7) In view of the apparent number of parties involved in this review, the use of sampling techniques for the investigation of subsidisation was envisaged in accordance with Article 27 of the basic Regulation.

(8) Only two exporting producers made themselves known and provided the information requested for sampling. Therefore, the use of sampling techniques was not considered necessary.

(9) However, one of the aforesaid exporting producers stated in its sampling reply that it did not receive benefits under the two allegedly changed subsidy schemes (i.e. the Duty Entitlement Passbook Scheme and the Income Tax Exemption under Section 80 HHC of the Income Tax Act) during either the investigation period that led to the measures in force or the RIP. Moreover, this company did not cooperate in the original investigation, and no particular need was identified to adapt the residual measure applicable to all other companies, including this one. Thus, the company did not fulfil the eligibility provisions of the scope of the partial interim review investigation as set out in point 4 of the notice of initiation and could not therefore participate in this review investigation. The company in question was informed accordingly.

(10) The Commission sent questionnaires to the sole cooperating exporting producer which was eligible for this review (Ranbaxy Laboratories Ltd) and to the GOI. Replies were received from both that producer and the GOI.

(11) The Commission sought and verified all information it deemed necessary for the determination of subsidisation. Verification visits were carried out at the premises of the following interested parties:

1. Government of India

Ministry of Commerce, New Delhi;

2. exporting producers in India

Ranbaxy Laboratories Ltd, New Delhi.

V. **Disclosure and comments on procedure**

(12) The GOI and the other interested parties were informed of the essential facts and considerations upon which it was intended to propose to amend the duty rate applicable to the sole cooperating Indian producer and prolong existing measures for all other companies which did not cooperate with this partial interim review. They were also given a reasonable time to comment. All submissions and comments were taken duly into consideration as set out below.

B. **PRODUCT CONCERNED**

(13) The product covered by this review is the same product as the one concerned by Regulation (EC) No 713/2005, namely amoxicillin trihydrate, ampicillin trihydrate and cefalexin not put up in measured doses or in forms or packings for retail sale falling within CN codes ex 2941 10 10, ex 2941 10 20 and ex 2941 90 00 originating in India.

C. **SUBSIDIES**

I. **Introduction**

(14) On the basis of the information submitted by the GOI and the sole cooperating exporting producer and the replies to the Commission's questionnaire, the following schemes, which allegedly involve the granting of subsidies, were investigated:

(a) Advance Authorisation Scheme (formerly known as Advance Licence Scheme);

(b) Duty Entitlement Passbook Scheme;

(c) Export Promotion Capital Goods Scheme;

(d) Focus Market Scheme;

(e) Income Tax Schemes:

— Export Income Tax Exemption Scheme,

— Income Tax Incentive for Research and Development;

(f) Export Credit Scheme.

(15) The schemes (a) to (d) specified above are based on the Foreign Trade (Development and Regulation) Act 1992 (No 22 of 1992) which entered into force on 7 August 1992 (Foreign Trade Act). The Foreign Trade Act authorises the GOI to issue notifications regarding the export and import policy. These are summarised in 'Export and Import Policy' documents, which are issued by the Ministry of Commerce every five years and updated regularly. One Export and Import Policy document is relevant to the RIP of this case; i.e. the five-year plan relating to the period 1 September 2004 to 31 March 2009 (EXIM policy 04-09). In addition, the GOI also sets out the procedures governing the EXIM policy 04-09 in a 'Handbook of Procedures — 1 September 2004 to 31 March 2009, Volume I' (HOP I 04-09). The Handbook of Procedure is also updated on a regular basis.

(16) The Income Tax Schemes specified above under (e) are based on the Income Tax Act of 1961, which is amended yearly by the Finance Act.

(17) The Export Credit Scheme specified above under (f) is based on sections 21 and 35A of the Banking Regulation Act 1949, which allow the Reserve Bank of India (RBI) to direct commercial banks in the field of export credits.

(18) In accordance with Article 11(10) of the basic Regulation, the Commission invited the GOI for additional consultations with respect to both changed and unchanged schemes with the aim of clarifying the factual situation as regards the alleged schemes and arriving at a mutually agreed solution. Following these consultations, and in the absence of a mutually agreed solution in relation to these schemes, the Commission included all these schemes in the investigation of subsidisation.

II. **Specific schemes**

1. *Advance Authorisation Scheme (AAS)*

(a) Legal basis

(19) The detailed description of the scheme is contained in paragraphs 4.1.1 to 4.1.14 of the EXIM policy 04-09 and chapters 4.1 to 4.30 of the HOP I 04-09. This scheme was called Advance Licence Scheme during the previous review investigation that led to the imposition by Regulation (EC) No 713/2005 of the definitive countervailing duty currently in force.

(b) Eligibility

(20) The AAS consists of six sub-schemes, as described in more detail in recital 21. Those sub-schemes differ, *inter alia*, in the scope of eligibility. Manufacturer-exporters and merchant-exporters 'tied to' supporting manufacturers are eligible for the AAS physical exports and for the AAS for annual requirement. Manufacturer-exporters supplying the ultimate exporter are eligible for AAS for intermediate supplies. Main contractors which supply to the 'deemed export' categories mentioned in paragraph 8.2 of the EXIM policy 04-09, such as suppliers of an export oriented unit (EOU), are eligible for AAS deemed export. Eventually, intermediate suppliers to manufacturer-exporters are eligible for 'deemed export' benefits under the sub-schemes Advance Release Order (ARO) and back-to-back inland letter of credit.

(c) Practical implementation

(21) Advance authorisations can be issued for:

(i) physical exports: this is the main sub-scheme. It allows for duty-free import of input materials for the production of a specific resultant export product. 'Physical' in this context means that the export product has to leave Indian territory. An import allowance and export obligation including the type of export product are specified in the authorisation;

(ii) annual requirement: such an authorisation is not linked to a specific export product, but to a wider product group (e.g. chemical and allied products). The authorisation holder can — up to a certain value threshold set by its past export performance — import duty free any input to be used in manufacturing any of the items falling under such a product group. It can choose to export any resultant product falling under the product group using such duty-exempt material;

(iii) intermediate supplies: this sub-scheme covers cases where two manufacturers intend to produce a single export product and divide the production process. The manufacturer-exporter who produces the intermediate product can import duty-free input materials and can obtain for this purpose an AAS for intermediate supplies. The ultimate exporter finalises the production and is obliged to export the finished product;

(iv) deemed exports: this sub-scheme allows a main contractor to import inputs free of duty which are required in manufacturing goods to be sold as 'deemed exports' to the categories of customers mentioned in paragraph 8.2(b) to (f), (g), (i) and (j) of the EXIM policy 04-09. According to the GOI, deemed exports refer to those transactions in which the goods supplied do not leave the country. A number of categories of supply is regarded as deemed exports provided the goods are manufactured in India, e.g. supply of goods to an EOU or to a company situated in a special economic zone (SEZ);

(v) ARO: the AAS holder intending to source the inputs from indigenous sources, in lieu of direct import, has the option to source them against AROs. In such cases the Advance Authorisations are validated as AROs and are endorsed to the indigenous supplier upon delivery of the items specified therein. The endorsement of the ARO entitles the indigenous supplier to the benefits of deemed exports as set out in paragraph 8.3 of the EXIM policy 04-09 (i.e. AAS for intermediate supplies/deemed export, deemed export drawback and refund of terminal excise duty). The ARO mechanism refunds taxes and duties to the supplier instead of refunding the same to the ultimate exporter in the form of drawback/refund of duties. The refund of taxes/duties is available both for indigenous inputs as well as imported inputs;

(vi) back-to-back inland letter of credit: this sub-scheme again covers indigenous supplies to an Advance Authorisation holder. The holder of an Advance Authorisation can approach a bank for opening an inland letter of credit in favour of an indigenous supplier. The authorisation will be invalidated by the bank for direct import only in respect of the value and volume of items being sourced indigenously instead of importation. The indigenous supplier will be entitled to the forecast export benefits as set out in paragraph 8.3 of the EXIM policy 04-09 (i.e. AAS for intermediate supplies/deemed export, deemed export drawback and refund of terminal excise duty).

It was established that during the RIP the cooperating exporter only obtained concessions under two sub-schemes linked to the product concerned, i.e. (i) AAS physical exports and (ii) AAS for intermediate supplies. It is therefore not necessary to establish the countervailability of the remaining unused sub-schemes.

(22) Following the imposition by Regulation (EC) No 713/2005 of the definitive countervailing duty currently in force, the GOI has modified the verification system applicable to AAS. In concrete terms, for verification purposes by the Indian authorities, an Advance Authorisation holder is legally obliged to maintain 'a true and proper account of consumption and utilisation of duty-free imported/domestically procured goods' in a specified format (chapters 4.26, 4.30 and Appendix 23 HOP I 04-09), i.e. an actual consumption register. This register has to be verified by an external chartered accountant/cost and works accountant who issues a certificate stating that the prescribed registers and relevant records have been examined and the information furnished under Appendix 23 is true and correct in all respects. Nevertheless, the aforesaid provisions apply only to Advance Authorisations issued on or after 13 May 2005. For all Advance Authorisations or Advance Licences issued before that date, holders are requested to follow the previously applicable verification provisions, i.e. to keep a true and proper account of licence-wise consumption and utilisation of imported goods in the specified format of Appendix 18 (chapter 4.30 and Appendix 18 HOP I 02-07).

(23) With regard to the sub-schemes used during the RIP by the sole cooperating exporting producer, i.e. physical exports and intermediate supplies, both the import allowance and the export obligation are fixed in volume and value by the GOI and are documented on the authorisation. In addition, at the time of import and of export, the corresponding transactions are to be documented by government officials on the authorisation. The volume of imports allowed under this scheme is determined by the GOI on the basis of standard input-output norms (SIONs). SIONs exist for most products including the product concerned and are published in the HOP II 04-09. Following the imposition by Council Regulation (EC) No 713/2005 of the definitive countervailing duty currently in force, SION norms for the product concerned were only applicable up to September 2005. New norms were issued in September 2006 (for amoxicillin trihydrate) and April 2007 (for ampicillin trihydrate and cefalexin). In the meantime, ad-hoc norms applied.

(24) Imported input materials are not transferable and have to be used to produce the resulting export product. The export obligation must be fulfilled within a prescribed time-frame after issuance of the authorisation (24 months with two possible extensions of six months each).

(25) The review investigation established that raw materials were imported under different authorisations/licences and different SION norms and then were mixed and physically incorporated in the production process of the same exported good. Account taken of the above, it was not possible to establish whether SION norm requirements, stipulated under specific authorisations/licences, with respect to duty-free input materials exceed the material needed to produce the reference quantity of the resulting export product.

(26) The review investigation also established that the verification requirements stipulated by the Indian authorities were either not honoured or not yet tested in practice. For Advance Licences issued before 13 May 2005 the necessary actual consumption and stock registers (i.e. Appendix 18) did not exist. For Advance Authorisations issued after 13 May 2005 the necessary actual consumption and stock registers were used but GOI had not yet verified the compliance of these registers with EXIM policy requirements. In the latter case, the registers were only verified by an external chartered accountant as required by the relevant Indian legislation

mentioned under recital 22. Nevertheless, there were no records kept either by the company or by the chartered accountant on how this certification process took place. There was no audit plan or any other supporting material of the audit performed, no recorded information on the methodology used and the specific requirements needed for such scrupulous work that requires detailed technical knowledge on production processes, EXIM policy requirements and accounting procedures. Account taken of this situation, it is considered that the investigated exporter was not able to demonstrate that the relevant EXIM provisions were met.

(d) Disclosure comments

(27) The sole cooperating producer submitted comments on the AAS. The company claimed that despite the situation described under recital 24 it was possible to establish whether SION norm requirements stipulated under specific authorisations exceed the materials needed to produce the reference quantity of the resulting export product and that the company maintained actual consumption records in highly meticulous manner. In this respect it is noted that the actual production records confirmed that it was not possible to establish a reliable benchmark per given authorisation (i.e. materials needed to produce the reference quantity) account taken of the various applicable SION norms and the incoherent mixture of raw materials used for production. Furthermore, raw materials covered by the scheme were found to be used for products other than the product concerned. Thus, making virtually impossible any attempt to calculate yield results for the product under investigation. Moreover, the company did not keep, in breach of the relevant GOI provisions, the per EXIM policy requested consumption record (i.e. Appendix 18) which purpose is to provide a comprehensible way of monitoring and verifying actual consumption. The company also claimed that Article 26(1) of the basic Regulation does not empower the Commission to examine the records of the independent chartered accountant. According to the company, the certificate has to be accepted unless there are grounds to believe that the chartered accountant has made a false certification. In this respect it is recalled that the verification process performed by the chartered accountant and the issuing of the relevant certificate form part of the verification system introduced by the GOI in its EXIM policy, as described under recital 22. The Commission was therefore obliged to examine whether the aforesaid verification system was effectively applied. Furthermore, in line with the provisions of Article 11(8) of the basic Regulation, the Commission had to examine the information supplied during the course of the investigation upon which findings are based.

The fact that neither the company nor the assigned chartered account hold any record on the checks performed in order to issue the EXIM policy stipulated certificate demonstrates that the company was not in a position to prove that the relevant EXIM policy provisions were met. The company disputed the fact that GOI has not yet verified the compliance of its registers with EXIM policy requirements but did not provide any concrete evidence on its claim. It was also argued that the actual consumption of the sole cooperating producer had been higher than the SION norms for every input and that there was no excess remission of duties. Nevertheless, account taken of the actual situation found on the spot (i.e. mixture of inputs and produced products, use of different SION norms, lack of the by EXIM policy stipulated actual consumption registers) and pending the fulfilment of the necessary final verification steps by the GOI, any calculation with respect to actual consumption and consequent excess remission of duties per authorisation/license and SION norm was not feasible. Therefore, all the aforesaid claims had to be rejected. Finally, the company provided comments on a computation error which was considered warrant and was acknowledged in the calculation of the subsidy amount.

(e) Conclusion

(28) The exemption from import duties is a subsidy within the meaning of Article 2(1)(a)(ii) and Article 2(2) of the basic Regulation, i.e. a financial contribution of the GOI which conferred a benefit upon the investigated exporter.

(29) In addition, AAS physical exports and AAS for intermediate supply are clearly contingent in law upon export performance, and therefore deemed to be specific and countervailable under Article 3(4)(a) of the basic Regulation. Without an export commitment a company cannot obtain benefits under these schemes.

(30) None of the two sub-schemes used in the present case can be considered as permissible duty drawback systems or substitution drawback systems within the meaning of Article 2(1)(a)(ii) of the basic Regulation. They do not conform to the rules laid down in Annex I point (i), Annex II (definition and rules for drawback) and Annex III (definition and rules for substitution drawback) of the basic Regulation. The GOI did not effectively apply its verification system or procedure to confirm whether and in what amounts inputs were consumed in the production of the exported product (Annex II(II)(4) of the basic Regulation and, in the case of substitution drawback schemes, Annex III(II)(2) of the basic Regulation). The SIONs themselves cannot be considered a verification system of actual consumption, since duty-free input materials imported under authorisations/licences with different SION yields are mixed in the same production process for an exporting good. This type of process does not enable the GOI to verify with sufficient precision what amounts of inputs were consumed in the export production and under which SION benchmark they should be compared. Furthermore, an effective control done by the GOI based on a correctly kept actual consumption register either did not take place or has not yet been completed. In addition, the GOI did not carry out a further examination based on actual

inputs involved, although this would normally need to be carried out in the absence of an effectively applied verification system (Annex II(II)(5) and Annex III(II)(3) to the basic Regulation). Finally, the involvement of chartered accountants in the verification process has not led to the improvement of the verification system as no detailed rules exist on how chartered accountants should perform the entrusted tasks and the information presented during the investigation could not warrant the fulfilment of the aforesaid rules laid down under the basic Regulation.

(31) These two sub-schemes are therefore countervailable.

(f) Calculation of the subsidy amount

(32) In the absence of permitted duty drawback systems or substitution drawback systems, the countervailable benefit is the remission of total import duties normally due upon importation of inputs. In this respect, it is noted that the basic Regulation does not only provide for the countervailing of an 'excess' remission of duties. According to Article 2(1)(a)(ii) and Annex I(i) of the basic Regulation only an excess remission of duties can be countervailed, provided the conditions of Annexes II and III of the basic Regulation are met. However, these conditions were not fulfilled in the present case. Thus, if an absence of an adequate monitoring process is established, the above exception for drawback schemes is not applicable and the normal rule of the countervailing of the amount of (revenue forgone) unpaid duties, rather than any purported excess remission, applies. As set out in Annexes II(II) and III(II) of the basic Regulation the burden is not upon the investigating authority to calculate such excess remission. To the contrary, according to Article 2(1)(a)(ii) of the basic Regulation it only has to establish sufficient evidence to refute the appropriateness of an alleged verification system.

(33) The subsidy amount for the exporter which used the AAS was calculated on the basis of import duties forgone (basic customs duty and special additional customs duty) on the material imported under the two sub-schemes used for the product concerned during the RIP (nominator). In accordance with Article 7(1)(a) of the basic Regulation, fees necessarily incurred to obtain the subsidy were deducted from the subsidy amount where justified claims were made. In accordance with Article 7(2) of the basic Regulation, this subsidy amount has been allocated over the export turnover generated by the product concerned during the RIP as appropriate denominator, because the subsidy is contingent upon export performance and was not granted by reference to the quantities manufactured, produced, exported or transported.

(34) The subsidy rate established in respect of this scheme during the RIP for the sole cooperating producer amounts to 8,2 %.

2. *Duty Entitlement Passbook Scheme (DEPBS)*

(a) Legal Basis

(35) The detailed description of the DEPBS is contained in paragraph 4.3 of the EXIM policy 04-09 and in chapter 4 of the HOP I 04-09.

(b) Eligibility

(36) Any manufacturer-exporter or merchant-exporter is eligible for this scheme.

(c) Practical implementation of the DEPBS

(37) An eligible exporter can apply for DEPBS credits which are calculated as a percentage of the value of products exported under this scheme. Such DEPBS rates have been established by the Indian authorities for most products, including the product concerned. They are determined on the basis of SIONs, taking into account a presumed import content of inputs in the export product and the customs duty incidence on such presumed imports, regardless of whether import duties have actually been paid or not.

(38) To be eligible for benefits under this scheme, a company must export. At the point in time of the export transaction, a declaration must be made by the exporter to the authorities in India indicating that the export is taking place under the DEPBS. In order for the goods to be exported, the Indian customs authorities issue, during the dispatch procedure, an export shipping bill. This document shows, *inter alia*, the amount of DEPBS credit which is to be granted for that export transaction. At this point in time, the exporter knows the benefit it will receive. Once the customs authorities issue an export shipping bill, the GOI has no discretion over the granting of a DEPBS credit. The relevant DEPBS rate to calculate the benefit is that which applied at the time the export declaration is made. Therefore, there is no possibility for a retroactive amendment to the level of the benefit.

(39) DEPBS credits are freely transferable and valid for a period of 12 months from the date of issue. They can be used for payment of customs duties on subsequent imports of any goods unrestrictedly importable, except capital goods. Goods imported against such credits can be sold on the domestic market (subject to sales tax) or used otherwise.

(40) Applications for DEPBS credits are electronically filed and can cover an unlimited amount of export transactions. De facto, no strict deadlines exist to apply for DEPBS credits. The electronic system used to manage DEPBS does not automatically exclude export transactions outside the deadline submission periods mentioned in chapter 4.47 HOP I 04-09. Furthermore, as clearly provided in chapter 9.3 HOP I 04-09 applications received after the expiry of submission deadlines can always be considered with the imposition of a minor penalty fee (i.e. 10 % on the entitlement).

(d) Disclosure comments

(41) Upon disclosure the sole cooperating exporting producer submitted comments on DEPBS. The company claimed that DEPBS benefit should not be countervailed because it was not availed for the product concerned. However, the company did not provide any argument that could dispute the practical implementations of the scheme as expressed under recitals 37 to 40. The company also claimed that only the credit amount of the exports made during the RIP should be used for the calculation of the duty benefit granted but failed to substantiate why the calculation methodology used both in the present and previous investigation that led to the imposition of the existing measures are not in line with the provisions of the basic Regulation. Therefore, those claims had to be rejected. Finally, the company provided comments on a computation error which was considered warrant and was acknowledged in the calculation of the subsidy amount.

(e) Conclusions on the DEPBS

(42) The DEPBS provides subsidies within the meaning of Article 2(1)(a)(ii) and Article 2(2) of the basic Regulation. A DEPBS credit is a financial contribution by the GOI, since the credit will eventually be used to offset import duties, thus decreasing the GOI's duty revenue which would be otherwise due. In addition, the DEPBS credit confers a benefit upon the exporter, because it improves its liquidity.

(43) The DEPBS is contingent in law upon export performance, and therefore deemed to be specific and countervailable under Article 3(4)(a) of the basic Regulation.

(44) This scheme cannot be considered a permissible duty drawback system or substitution drawback system within the meaning of Article 2(1)(a)(ii) of the basic Regulation. It does not conform to the strict rules laid down in Annex I point (i), Annex II (definition and rules for drawback) and Annex III (definition and rules for substitution drawback) of the basic Regulation. An exporter is under no obligation to actually consume the goods imported free of duty in the production process and the amount of credit is not calculated in relation to actual inputs used. Moreover, there is no system or procedure in place to confirm which inputs are consumed in the production process of the exported product or whether an excess payment of import duties occurred within the meaning of point (i) of Annex I and Annexes II and III of the basic Regulation. Lastly, an exporter is eligible for the DEPBS benefits regardless of whether it imports any inputs at all. In order to obtain the benefit, it is sufficient for an exporter to simply export goods without demonstrating that any input material was imported. Thus, even exporters which procure all of their inputs locally and do not import any goods which can be used as inputs are still entitled to benefit from the DEPBS.

(f) Calculation of the subsidy amount

(45) In accordance with Articles 2(2) and 5 of the basic Regulation and the calculation methodology used for this scheme in Regulation (EC) No 713/2005, the amount of countervailable subsidies was calculated in terms of the benefit conferred on the recipient, which is found to exist during the RIP. In this regard, it was considered that the benefit is conferred on the recipient at the point in time when an export transaction is made under this scheme. At this moment, the GOI is liable to forego the customs duties, which constitutes a financial contribution within the meaning of Article 2(1)(a)(ii) of the basic Regulation. Once the customs authorities issue an export shipping bill which shows, *inter alia*, the amount of DEPBS credit which is to be granted for that export transaction, the GOI has no discretion as to whether or not to grant the subsidy and it has no discretion as to the amount of the subsidy. Any change of the DEPBS rates between the actual export and the issuance of a DEPBS licence has no retroactive effect on the level of the benefit granted. Furthermore, the sole cooperating exporting producer booked the DEPBS credits on an accrual basis as income at the stage of export transaction.

(46) Where justified claims were made, fees necessarily incurred to obtain the subsidy were deducted from the credits so established to arrive at the subsidy amount as nominator, pursuant to Article 7(1)(a) of the basic Regulation. In accordance with Article 7(2) of the basic Regulation this subsidy amount has been allocated over the total export turnover during the review investigation period as appropriate denominator, because the subsidy is contingent upon export performance and it was not granted by reference to the quantities manufactured, produced, exported or transported.

(47) The subsidy rate established in respect of this scheme during the RIP for the sole cooperating exporting producer amounts to 2,1 %.

3. *Export Promotion Capital Goods Scheme (EPCGS)*

(a) Legal basis

(48) The detailed description of the EPCGS is contained in chapter 5 of the EXIM policy 04-09 and in chapter 5 of the HOP I 04-09.

(b) Eligibility

(49) Manufacturer-exporters, merchant-exporters 'tied to' supporting manufacturers and service providers are eligible for this scheme.

(c) Practical implementation

(50) Under the condition of an export obligation, a company is allowed to import capital goods (new and, since April 2003, secondhand capital goods up to 10 years old) at a reduced rate of duty. To this end, the GOI issues, upon application and payment of a fee, an EPCGS licence. Since April 2000, the scheme provides for a reduced import duty rate of 5 % applicable to all capital goods imported under the scheme. Until 31 March 2000, an effective duty rate of 11 % (including a 10 % surcharge) and, in case of high value imports, a zero duty rate was applicable. In order to meet the export obligation, the imported capital goods must be used to produce a certain amount of export goods during a certain period.

(51) The EPCGS licence holder can also source the capital goods indigenously. In such case, the indigenous manufacturer of capital goods may avail of the benefit for duty-free import of components required to manufacture such capital goods. Alternatively, the indigenous manufacturer can claim the benefit of deemed export in respect of supply of capital goods to an EPCGS licence holder.

(d) Disclosure comments

(52) Upon disclosure the sole cooperating exporting producer submitted comments on EPCGS. The company claimed that on the basis of the generally accepted accounting principles capital goods are consumed in the production process. In this respect it is noted that the company failed to substantiate this claim by explicitly mentioning the so-called generally acceptable accounting principles and providing an analysis in relation with the relevant EPCGS provisions of the EXIM policy as well as the definition of inputs consumed in the production process, as set out in Annex II of the basic Regulation. It also argued that the company's depreciation period should have been used as the normal depreciation period. Nevertheless, such an approach is contrary to the relevant provision of Article 7(3) of the basic Regulation. Therefore, these claims had to be rejected. Finally, the company provided comments on a computation error which was considered warrant and was acknowledged in the calculation of the subsidy amount.

(e) Conclusion on EPCG Scheme

(53) The EPCGS provides subsidies within the meaning of Article 2(1)(a)(ii) and Article 2(2) of the basic Regulation. The duty reduction constitutes a financial contribution by the GOI, since this concession decreases the GOI's duty revenue, which would be otherwise due. In addition, the duty reduction confers a benefit upon the exporter, because the duties saved upon importation improve its liquidity.

(54) Furthermore, the EPCGS is contingent in law upon export performance, since such licences cannot be obtained without a commitment to export. Therefore, it is deemed to be specific and countervailable under Article 3(4)(a) of the basic Regulation.

(55) Eventually, this scheme can not be considered a permissible duty drawback system or substitution drawback system within the meaning of Article 2(1)(a)(ii) of the basic Regulation. Capital goods are not covered by the scope of such permissible systems, as set out in Annex I point (i) of the basic Regulation, because they are not consumed in the production of the exported products.

(f) Calculation of the subsidy amount

(56) The subsidy amount was calculated, in accordance with Article 7(3) of the basic Regulation, on the basis of the unpaid customs duty on imported capital goods spread across a period which reflects the normal depreciation period of such capital goods in the antibiotics industry. In accordance with the established practice, the amount so calculated, which is attributable to the RIP, has been adjusted by adding interest during this period in order to reflect the full value of the benefit over time. The commercial interest rate during the review investigation period in India was considered appropriate for this purpose. Where justified claims were maid, fees necessarily incurred to obtain the subsidy were deducted in accordance with Article 7(1)(a) of the basic Regulation from this sum to arrive at the subsidy amount as nominator. In accordance with Article 7(2) and 7(3) of the basic Regulation, this subsidy amount has been allocated over the export turnover during the RIP as appropriate denominator, because the subsidy is contingent upon export performance and it was not granted by reference to the quantities manufactured, produced, exported or transported.

(57) The subsidy rate established in respect of this scheme during the RIP for the sole cooperating exporting producer amounts to 0,1 %.

4. *Export Credit Scheme (ECS)*

(a) Legal basis

(58) The details of the scheme are set by in Master Circular DBOD No DIR.(Exp). BC 01/04.02.02/2007-08 of the Reserve Bank of India (RBI), which is addressed to all commercial banks in India.

(b) Eligibility

(59) Manufacturing exporters and merchant exporters are eligible for this scheme.

(c) Practical implementation

(60) Under this scheme, the RBI mandatorily sets maximum ceiling interest rates applicable to export credits, both in Indian rupees or in foreign currency, which commercial banks can charge an exporter. The ECS consists of two sub-schemes, the Pre-Shipment Export Credit Scheme (packing credit), which covers credits provided to an exporter for financing the purchase, processing, manufacturing, packing and/or shipping of goods prior to export, and the Post-Shipment Export Credit Scheme, which provides for working capital loans with the purpose of financing export receivables. The RBI also directs the banks to provide a certain amount of their net bank credit towards export finance.

(61) As a result of the RBI Master Circular, exporters can obtain export credits at preferential interest rates compared with the interest rates for ordinary commercial credits (cash credits), which are set purely under market conditions. The difference in rates might decrease for companies with good credit ratings. In fact, high rating companies might be in a position to obtain export credits and cash credits at the same conditions.

(d) Disclosure comments

(62) Upon disclosure the sole cooperating exporting producer submitted comments on ECS. The company argued that (i) there is no public funding into the granting of export credit in foreign currency; (ii) its low rates in foreign currency export credit was due to the company's high credit rating; and (iii) the interest rate used as benchmark on foreign currency credit should not be the same with the one used on Indian rupee credit. In this respect it is noted that both Indian rupee and foreign currency export credit form part of the same RBI Master Circular, with the practical implementations described under recitals 60 and 61, whose detailed and restrictive provisions demonstrates that foreign currency export credit funding and interest rates levied are linked to clear government imposed directives. As regards to the benchmark rate, it is noted that this was reported by the company on its Indian rupee credit and, in line with the relevant policies of the RBI Master Circular, exporters have the ability to freely pass for the same export transaction from rupee credit to foreign currency credit. It is therefore considered appropriate to use as benchmark the only rate reported by the company as its normal Indian interest rate. Therefore, those claims had to be rejected. Finally, the company provided comments on a computation error which was considered warrant and was acknowledged in the calculation of the subsidy amount.

(e) Conclusion on the ECS

(63) The preferential interest rates of an ECS credit set by the RBI Master Circular mentioned in recital 58 can decrease interest costs of an exporter as compared with credit costs purely set by market conditions and confer in this case a benefit in the meaning of Article 2(2) of the basic Regulation on such exporter. Export financing is not per se more secure than domestic financing. In fact, it is usually perceived as being more risky and the extent of security required for a certain credit, regardless of the finance object, is a purely commercial decision of a given commercial bank. Rate differences with regard to different banks are the result of the methodology of the RBI to set maximum lending rates for each commercial bank individually. In addition, commercial banks would not be obliged to pass through to borrowers of export financing any more advantageous interest rates for export credits in foreign currency.

(64) Despite the fact that the preferential credits under the ECS are granted by commercial banks, this benefit is a financial contribution by a government within the meaning of Article 2(1)(a)(iv) of the basic Regulation. In this context, it should be noted that neither Article 2(1)(a)(iv) of the basic Regulation nor the ASCM require a charge on the public accounts, e.g. reimbursement of the commercial banks by the GOI, to establish a subsidy, but only government direction to carry out functions illustrated in points (i), (ii) or (iii) of Article 2(1)(a) of the basic Regulation. The RBI is a public body and falls therefore under the definition of a 'government' as set out in Article 1(3) of the basic Regulation. It is 100 % government-owned, pursues public policy objectives, e.g. monetary policy, and its management is appointed by the GOI. The RBI directs

private bodies, within the meaning of the second indent of Article 2(1)(a)(iv) of the basic Regulation, since the commercial banks are bound by the conditions it imposes, *inter alia*, with regard to the maximum ceilings for interest rates on export credits mandated in the RBI Master Circular and the RBI provisions that commercial banks have to provide a certain amount of their net bank credit towards export finance. This direction obliges commercial banks to carry out functions mentioned in Article 2(1)(a)(i) of the basic Regulation, in this case loans in the form of preferential export financing. Such direct transfer of funds in the form of loans under certain conditions would normally be vested in the government, and the practice, in no real sense, differs from practices normally followed by governments, within the meaning of Article 2(1)(a)(iv) of the basic Regulation. This subsidy is deemed to be specific and countervailable since the preferential interest rates are only available in relation to the financing of export transactions and are therefore contingent upon export performance, pursuant to Article 3(4)(a) of the basic Regulation.

(f) Calculation of the subsidy amount

(65) The subsidy amount has been calculated on the basis of the difference between the interest paid for export credits used during the RIP and the interest rate that would have been payable for ordinary commercial credits used by the sole cooperating exporting producer. This subsidy amount (nominator) has been allocated over the total export turnover during the RIP as appropriate denominator in accordance with Article 7(2) of the basic Regulation, because the subsidy is contingent upon export performance and it was not granted by reference to the quantities manufactured, produced, exported or transported.

(66) The subsidy rate established with regard to this scheme for the RIP for the sole cooperating exporting producer amounts to 1,3 %.

5. *Income Tax Schemes*

(a) Income Tax Exemption Scheme (ITES)

Section 80HHC of the Income Tax Act 1961 (ITA)

(67) Under this scheme exporters could avail the benefit of a partial income tax exemption on profits derived from export sales. The legal basis for this exemption was set by Section 80HHC of the ITA.

(68) This provision was abolished for the assessment year 2005/06 (i.e. for the financial year from 1 April 2004 to 31 March 2005) onwards and thus 80HHC of the ITA does not confer any benefits after 31 March 2004. The sole cooperating exporting producer did not avail of any benefits under this scheme during the RIP. Consequently, since the scheme has been withdrawn, it shall therefore not be countervailed, in accordance with Article 15(1) of the basic Regulation.

(b) Income Tax Incentive for Research and Development (ITIRAD)

(i) *Legal basis*

(69) The detailed description of the ITIRAD is set out in section 35(2AB) of the ITA.

(ii) *Eligibility*

(70) Companies engaged in the business of biotechnology or manufacture or production of drugs, pharmaceuticals, chemicals, electronic equipments, computers, telecommunication equipments, chemicals or any other article or thing as may be notified are eligible for benefits under this scheme.

(iii) *Practical implementation*

(71) For any expenditure (other than cost of land or building) on in-house research and development facilities as approved by the Department of Scientific and Industrial Research of the GOI, a deduction of a sum equal to 150 % of the costs de facto incurred is permitted for income tax purposes. Thus, by means of a 50 % deduction of fictional expenses (i.e. expenses not actually incurred), the income tax base and subsequently the income tax burden decreases artificially.

(iv) *Disclosure comments*

(72) No comments with respect to ITIRAD were submitted upon disclosure.

(v) *Conclusion on ITIRAD*

(73) The ITIRAD provides subsidies within the meaning of Article 2(1)(a)(ii) and Article 2(2) of the basic Regulation. The artificial income tax base reduction under section 35(2AB) of the ITA constitutes a financial contribution by the GOI, since this decreases the GOI's income tax revenue which would be otherwise due. In addition, the income tax reduction confers a benefit upon the company, because it improves its liquidity.

(74) The wording of section 35(2AB) ITA proves that ITIRAD is, de jure, specific in the meaning of Article 3(2)(a) of the basic Regulation and therefore countervailable. Eligibility for this scheme is not governed by objective criteria, which are neutral within the meaning of Article 3(2)(b) of the basic Regulation. Benefits under this scheme are only available to certain industries since the GOI has not made this scheme available to all sectors. Such limitation constitutes specificity, since the category 'group of industries' in Article 3(2) of the basic Regulation synonymously describes sector restrictions. This restriction is not economic in nature and horizontal in application such as a restriction on the number of employees or size of enterprise.

(vi) *Calculation of the subsidy amount*

(75) The subsidy amount has been calculated on the basis of the difference between the income tax due for the review investigation period with and without the application of the provision of section 35(2AB) of the ITA. This subsidy amount (nominator) has been allocated over the total turnover during the RIP as appropriate denominator in accordance with Article 7(2) of the basic Regulation, because this subsidy relates to all sales, domestic and export, and it was not granted by reference to the quantities manufactured, produced, exported or transported.

(76) The subsidy rate established with regard to this scheme during the RIP for the sole cooperating exporting producer amounts to 0,1 %.

6. *Focus Market Scheme (FMS)*

(a) Legal basis

(77) The detailed description of the FMS is contained in chapter 3.9 of the EXIM policy 04-09 and in chapter 3.20 of the HOP I 04-09.

(b) Eligibility

(78) Any manufacturer-exporter or merchant-exporter is eligible for this scheme.

(c) Practical implementation

(79) Under this scheme exports of all products to countries notified under Appendix 37(C) of HOP I 04-09 are entitled to duty credit equivalent to 2,5 % of the FOB value of products exported under this scheme. Certain type of export activities are excluded from the scheme, e.g. exports of imported goods or transhipped goods, deemed exports, service exports and export turnover of units operating under special economic zones/export operating units. Also excluded from the scheme are certain types of products, e.g. diamonds, precious metals, ores, cereals, sugar and petroleum products.

(80) The duty credits under FMS are freely transferable and valid for a period of 24 months from the date of issue of the relevant credit entitlement certificate. They can be used for payment of custom duties on subsequent imports of any inputs or goods including capital goods.

(81) The credit entitlement certificate is issued from the port from which the exports have been made and after realisation of exports or shipment of goods. As long as the applicant provides to the authorities copies of all relevant export documentation (e.g. export order, invoices, shipping bills, bank realisation certificates), the GOI has no discretion over the granting of the duty credits.

(d) Disclosure comments

(82) Upon disclosure the sole cooperating exporting producer submitted comments on FMS. The company argued that the scheme is geographically related to other countries and cannot be countervailed by EC. Nevertheless, it was not able to dispute neither the practical implementations of the scheme nor the way the FMS benefit is used, as stated under recitals 79 to 81. Therefore, this claim had to be rejected. Finally, the company provided comments on a computation error which was considered warrant and was acknowledged in the calculation of the subsidy amount.

(e) Conclusion on FMS

(83) The FMS provides subsidies within the meaning of Article 2(1)(a)(ii) and Article 2(2) of the basic Regulation. A FMS duty credit is a financial contribution by the GOI, since the credit will eventually be used to offset import duties, thus decreasing the GOI's duty revenue which would be otherwise due. In addition, the FMS duty credit confers a benefit upon the exporter, because it improves its liquidity.

(84) Furthermore, the FMS is contingent in law upon export performance, and therefore deemed to be specific and countervailable under Article 3(4)(a) of the basic Regulation.

(85) This scheme cannot be considered a permissible duty drawback system or substitution drawback system within the meaning of Article 2(1)(a)(ii) of the basic Regulation. It does not conform to the strict rules laid down in Annex I point (i), Annex II (definition and rules for drawback) and Annex III (definition and rules for substitution drawback) of the basic Regulation. An exporter is under no obligation to actually consume the goods imported free of duty in the production process and the amount of credit is not calculated in relation to actual inputs used. There is no system or procedure in place to confirm which inputs are consumed in the production process of the exported product or whether an excess payment of import duties occurred within the meaning of point (i) of Annex I and Annexes II and III of the basic Regulation. An exporter is eligible for the FMS benefits regardless of whether it imports any inputs at all. In order to obtain the benefit, it is sufficient for an exporter to simply export goods without demonstrating that any input material was imported. Thus, even exporters which procure all of their inputs locally and do not import any goods which can be used as inputs are still entitled to benefit from the FMS. Moreover, an exporter can use the FMS duty credits in order to import capital goods although capital goods are not covered by the scope of permissible duty drawback systems, as set out in Annex I point (i) of the basic Regulation, because they are not consumed in the production of the exported products.

(f) Calculation of the subsidy amount

(86) The amount of countervailable subsidies was calculated in terms of the benefit conferred on the recipient, which is found to exist during the RIP as booked by the cooperating exporting producer on an accrual basis as income at the stage of export transaction. In accordance with Article 7(2) and 7(3) of the basic Regulation this subsidy amount (nominator) has been allocated over the export turnover during the RIP as appropriate denominator, because the subsidy is contingent upon export performance and it was not granted by reference to the quantities manufactured, produced, exported or transported.

(87) The subsidy rate established with regard to this scheme during the RIP for the sole cooperating exporting producer amounts to 0,1 %.

III. **Amount of countervailable subsidies**

(88) It is recalled that in Regulation (EC) No 713/2005 the amount of countervailable subsidies, expressed *ad valorem*, was found to be 35,1 % for the sole exporting producer cooperating with the present partial interim review.

(89) During the present partial interim review the amount of countervailing subsidies, expressed *ad valorem*, was fount to be 11,9 %, as listed hereunder:

SCHEME / COMPANY	AAS	DEPBS	EPCGS	ECS	ITIRAD	FMS	Total
	%	%	%	%	%	%	%
Ranbaxy Laboratories Ltd	8,2	2,1	0,1	1,3	0,1	0,1	11,9

(90) Account taken of the above it is concluded that the level of subsidisation with regard to the sole cooperating exporting producer has decreased.

IV. **Countervailing measures**

(91) In line with the provisions of Article 19 of the basic Regulation and the grounds of this partial interim review stated under point 3 of the notice of initiation, it is established that the level of subsidisation with regard to the sole cooperating producer has decreased from 35,1 % to 11,9 % and, therefore, the rate of countervailing duty, imposed to this exporting producer by Regulation (EC) No 713/2005 has to be amended accordingly.

(92) In this respect, it is recalled that under Regulation (EC) No 713/2005 the subsidy rate of Ranbaxy Laboratories Ltd was higher than the injury elimination level. In accordance with Article 15(1) of the basic Regulation, the lesser duty reflecting the injury elimination level was considered adequate to remove injury to the Community industry and thus the rate of countervailing duty applicable to imports from Ranbaxy Laboratories Ltd was set to 30,3 %.

(93) Account taken of the above and given that the subsidies rate is now lower than the injury elimination level, the individual company countervailing duty rate applicable to the sole cooperating exporting producer, Ranbaxy Laboratories Ltd, is set at 11,9 %.

(94) With regard to all other companies that did not cooperate with the present partial interim review, it is noted that the actual modalities of the investigated schemes and their countervailability have not changed with respect to the previous investigation. Thus there is no reason to re-calculate the subsidy and duty rates of the companies that did not cooperate with the present partial interim review. Consequently, the rates of the duty applicable to all other parties except Ranbaxy Laboratories Ltd mentioned under Article 1(2) of Regulation (EC) No 713/2005 remain unchanged.

(95) The individual company countervailing duty rates specified in this Regulation reflect the situation found during the partial interim review. Thus, they are solely applicable to imports of the product concerned produced by these companies. Imports of the product concerned manufactured by any other company not specifically mentioned in the operative part of this Regulation, including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to 'all other companies'.

(96) Any claim requesting the application of these individual countervailing duty rates (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission [1] forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with, for instance, that name change or that change in the production and sales entities. If appropriate, and after consultation of the Advisory Committee, the Commission is hereby empowered to amend the Regulation accordingly by updating the list of companies benefiting from individual duty rates,

HAS ADOPTED THIS REGULATION:

Article 1

Paragraph 2 of Article 1 of Regulation (EC) No 713/2005 shall be replaced by the following:

'2. The rate of duty applicable to the net free-at-Community-frontier price, before duty for imports produced in India by the companies listed below, shall be as follows:

— 17,3 % for KDL Biotech Ltd, Mumbai (TARIC additional code: A580),

— 28,1 % for Nectar Lifesciences Ltd, Chandigarh (TARIC additional code: A581),

— 25,3 % for Nestor Pharmaceuticals Ltd, New Delhi (TARIC additional code: A582),

— 11,9 % for Ranbaxy Laboratories Ltd, New Delhi (TARIC additional code: 8221),

— 28,1 % for Torrent Gujarat Biotech Ltd, Ahmedabad (TARIC additional code: A583),

— 28,1 % for Surya Pharmaceuticals Ltd, Chandigarh (TARIC additional code: A584),

— 32 % for all other companies (TARIC additional code: 8900).'

Article 2

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 27 November 2008.

For the Council
The President
M. ALLIOT-MARIE

[1] European Commission — Directorate-General for Trade — Directorate B — J-79 4/23 — Rue de la Loi/Wetstraat 200 — B-1049 Brussels.

COMMISSION REGULATION (EC) No 1177/2008

of 28 November 2008

establishing the standard import values for determining the entry price of certain fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) [1],

Having regard to Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules for Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector [2], and in particular Article 138(1) thereof,

Whereas:

Regulation (EC) No 1580/2007 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XV, Part A thereto,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 138 of Regulation (EC) No 1580/2007 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 29 November 2008.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 28 November 2008.

For the Commission
Jean-Luc DEMARTY
Director-General for Agriculture and Rural Development

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[1] OJ L 299, 16.11.2007, p. 1.
[2] OJ L 350, 31.12.2007, p. 1.

ANNEX

Standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code (1)	Standard import value
0702 00 00	AL	25,7
	MA	54,0
	TR	71,8
	ZZ	50,5
0707 00 05	EG	188,1
	JO	167,2
	MA	58,1
	TR	83,7
	ZZ	124,3
0709 90 70	MA	64,8
	TR	122,0
	ZZ	93,4
0805 20 10	MA	66,8
	TR	65,0
	ZZ	65,9
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	CN	54,3
	HR	24,9
	IL	75,4
	TR	69,2
	ZZ	56,0
0805 50 10	MA	64,0
	TR	71,5
	ZA	117,7
	ZZ	84,4
0808 10 80	CA	88,7
	CL	67,1
	CN	54,0
	MK	32,9
	US	102,5
	ZA	112,2
	ZZ	76,2
0808 20 50	CN	32,1
	TR	103,0
	ZZ	67,6

(1) Nomenclature of countries laid down by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 1178/2008

of 28 November 2008

amending Council Regulation (EC) No 1165/98 concerning short-term statistics and Commission Regulations (EC) No 1503/2006 and (EC) No 657/2007 as regards adaptations following the revision of statistical classifications NACE and CPA

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1165/98 of 19 May 1998 concerning short-term statistics [1], and in particular Article 17 indents (b), (e) and (j) thereof,

Whereas:

(1) Regulation (EC) No 1165/98 established a common framework for the production of short-term Community statistics on the business cycle.

(2) Commission Regulation (EC) No 1503/2006 of 28 September 2006, implementing and amending Council Regulation (EC) No 1165/98 concerning short-term statistics as regards definitions of variables, list of variables and frequency of data compilation [2], provided methodological definitions of variables used in short-term statistics.

(3) Commission Regulation (EC) No 657/2007 of 14 June 2007, implementing Council Regulation (EC) No 1165/98 concerning short-term statistics as regards the establishment of European sample schemes [3], specified the rules and conditions with regard to transmission of data by Member States participating in European sample schemes for short-term statistics.

(4) It is necessary to update the list of variables, the levels of breakdown and aggregation to be applied to certain variables and the rules and conditions for the European sample schemes following the adoption of Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006, establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains [4], and Regulation (EC) No 451/2008 of the European Parliament and of the Council of 23 April 2008, establishing a new statistical classification of products by activity (CPA) and repealing Council Regulation (EEC) No 3696/93 [5].

(5) The measures provided for in this Regulation are in accordance with the opinion of the Statistical Programme Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Amendment to Regulation (EC) No 1165/98

Annex A to Regulation (EC) No 1165/98 is amended in accordance with Annex I to this Regulation.

Article 2

Amendment to Regulation (EC) No 1503/2006

Annex I to Regulation (EC) No 1503/2006 is amended in accordance with Annex II to this Regulation.

Article 3

Amendment to Regulation (EC) No 657/2007

The Annex to Regulation (EC) No 657/2007 is replaced by Annex III to this Regulation.

Article 4

Entry into force

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2009.

[1] OJ L 162, 5.6.1998, p. 1.
[2] OJ L 281, 12.10.2006, p. 15.
[3] OJ L 155, 15.6.2007, p. 7.
[4] OJ L 393, 30.12.2006, p. 1.
[5] OJ L 145, 4.6.2008, p. 65.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 28 November 2008.

For the Commission
Joaquín ALMUNIA
Member of the Commission

ANNEX I

Annex A to Regulation (EC) No 1165/98 is amended as follows:

1. Under heading (c) List of variables, paragraphs 10 and 11 are replaced by the following:

'10. The information on output prices and import prices (Nos 310, 311, 312 and 340) is not required for the following groups or classes of NACE Rev. 2 respectively CPA: 07.21, 24.46, 25.4, 30.1, 30.3, 30.4 and 38.3. In addition, the information on import prices (No 340) is not required for divisions 09, 18, 33 and 36 of CPA. The list of activities not required may be revised in accordance with the procedure laid down in Article 18.

11. The variable on import prices (No 340) is calculated on the basis of CPA products. The importing kind-of-activity units may be classified outside the activities of Sections B to D of NACE Rev. 2.';

2. The text under heading (f) Level of detail is amended as follows:

2.1. paragraph 7 is replaced by the following:

'7. The import price variable (No 340) is to be transmitted for total industrial products, Sections B to D of CPA and MIGs defined in accordance with Regulation (EC) No 586/2001 as amended by Regulation (EC) No 656/2007 from product groups of the CPA. This variable does not need to be transmitted by those Member States that have not adopted the euro as their currency.';

2.2. paragraphs 9 and 10 are replaced by the following:

'9. The variables on the non-domestic markets (Nos 122, 132 and 312) are to be transmitted according to the distinction into euro-zone and non-euro-zone. The distinction is to be applied to the total industry defined as NACE Rev. 2 Sections B to E, the MIGs, the Section (1 letter) and Division 2-digit level of NACE Rev. 2. The information on NACE Rev. 2 D and E is not required for variable 122. In addition, the import price variable (No 340) is to be transmitted according to the distinction into euro-zone and non-euro-zone. The distinction is to be applied to the total industry defined as CPA Sections B to D, the MIGs, the Section (1 letter) and Division 2-digit level of CPA. For the distinction into the euro-zone and non-euro-zone, the Commission may determine, in accordance with the procedure laid down in Article 18, the terms for applying European sample schemes as defined in point (d) of the first subparagraph of Article 4(2). The European sample scheme may limit the scope of the import price variable to the import of products from non-euro-zone countries. The distinction into the euro-zone and non-euro-zone for the variables 122, 132, 312 and 340 does not need to be transmitted by those Member States that have not adopted the euro as their currency.

10. Those Member States whose value added in Sections B, C, D and E of NACE Rev. 2 (respectively in Sections B, C and D of CPA for import prices) in a given base year represents less than 1 % of the European Community total only need to transmit data for total industry, MIGs, and NACE Rev. 2 Section level, or CPA Section level.'

ANNEX II

Annex I to Regulation (EC) No 1503/2006 is amended as follows:

under the heading 'Variable: 340 Import prices', the last indent of the fourth paragraph is replaced by the following:

'— the product coverage is limited to the CPA B, C and D products. Related services are excluded.'

ANNEX III

The Annex to Regulation (EC) No 657/2007 is replaced by the following:

'ANNEX

132 NON-DOMESTIC NEW ORDERS

Member State	Data scope in the European sample scheme (NACE Rev. 2)
Belgium	13, 14, 17, 20, 21, 24, 25, 26, 27, 29
Ireland	14, 20, 21, 26, 27
Cyprus	20, 21
Malta	26
The Netherlands	17, 20, 21, 25, 26, 28
Finland	17, 20, 21, 24, 26, 27, 28

312 OUTPUT PRICES OF THE NON-DOMESTIC MARKET

Member State	Data scope in the European sample scheme (NACE Rev. 2)
Belgium	08, 10, 11, 12, 13, 14, 17, 18, 19, 20, 21, 22, 23, 24, 29, 31, 32, 35
Ireland	05, 07, 08, 10, 11, 18, 20, 21, 26
Cyprus	10, 11, 20, 21, 26
Malta	12, 14, 26
Finland	05, 07, 08, 16, 17, 19, 24, 26, 28
Slovenia	14, 16, 22, 25, 31

340 IMPORT PRICES

Member State	Data scope in the European sample scheme (CPA)
Belgium	08.99, 10.32, 10.51, 12.00, 13.10, 15.12, 16.10, 19.20, 20.13, 20.14, 20.16, 20.59, 21.10, 21.20, 22.11, 22.19, 23.12, 23.14, 23.19, 23.70, 24.10, 25.73, 28.11, 28.24, 28.41, 28.92, 29.10, 29.32, 30.91, 31.00, 31.09, 32.50
Ireland	10.13, 10.82, 17.21, 17.22, 17.29, 20.42, 25.11, 26.11, 26.20, 26.30, 28.23, 32.50
Cyprus	19.20
Luxembourg	26.20
Malta	12.00
Austria	16.10, 23.13, 25.11, 25.94, 26.20, 26.30, 28.11, 28.92, 35.11
Portugal	05.10, 06.10
Finland	07.29, 16.10, 22.21, 23.20, 24.10, 26.30, 28.22, 31.09, 35.11
Slovenia	24.10'

COMMISSION REGULATION (EC) No 1179/2008

of 28 November 2008

laying down detailed rules for implementing certain provisions of Council Directive 2008/55/EC on mutual assistance for the recovery of claims relating to certain levies, duties, taxes and other measures

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2008/55/EC of 26 May 2008 on mutual assistance for the recovery of claims relating to certain levies, duties, taxes and other measures [1], and in particular Article 22 thereof,

Whereas:

(1) Detailed rules for implementing certain provisions of Directive 2008/55/EC are laid down in Commission Directive 2002/94/EC [2]. However, experience has shown that, a Directive, due to its legal nature, is not the most efficient legal instrument to fully achieve the purpose of a uniform procedure for mutual assistance. Therefore, it is appropriate to replace that Directive by a Regulation.

(2) In order to facilitate the exchange of information between the competent authorities of the Member States, all assistance requests and all accompanying documents and information should, as far as possible, be communicated by electronic means.

(3) In order to ensure that appropriate data and information are transmitted, models of forms for requests for mutual assistance among national authorities of the Member States should be established. It should be possible to update the structure and the lay-out of the electronic forms without amending the models in order to adapt those forms to the requirements and possibilities of the electronic communication system, provided that the requests contain the set of data and information required.

(4) In order to enable the Commission to evaluate the effect and efficiency of the procedures laid down in Directive 2008/55/EC on a regular basis, it is appropriate to set out certain information to be communicated to the Commission by the Member States every year.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Recovery,

HAS ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

This Regulation lays down the detailed rules for implementing Article 4(2) and (4), Article 5(2) and (3), Article 7, Article 8, Article 9, Article 11, Article 12(1) and (2), Article 14, Article 18(3) and Article 24 of Directive 2008/55/EC.

It also lays down the detailed rules on conversion, transfer of sums recovered, the fixing of a minimum amount for claims which may give rise to a request for assistance, as well as the means by which communications between authorities may be transmitted.

Article 2

For the purposes of this Regulation, the following definitions shall apply:

1. transmission 'by electronic means' means transmission using electronic equipment for processing, including digital compression, of data and employing wires, radio transmission, optical technologies or other electromagnetic means;

2. 'CCN/CSI network' means the common platform based on the Common Communication Network (CCN) and Common System Interface (CSI), developed by the Community to ensure all transmissions by electronic means between competent authorities in the area of Customs and Taxation.

CHAPTER II

REQUESTS FOR INFORMATION

Article 3

The request for information referred to in Article 4 of Directive 2008/55/EC shall comprise the set of data and information contained in the model of the form set out in Annex I to this Regulation.

Where a similar request has been addressed to any other authority, the applicant authority shall indicate in its request for information the name of that authority.

[1] OJ L 150, 10.6.2008, p. 28.
[2] OJ L 337, 13.12.2002, p. 41.

Article 4

The request for information may relate to any of the following:

1. the debtor;

2. any person liable for settlement of the claim under the law in force in the Member State in which the applicant authority is situated (hereinafter 'the Member State of the applicant authority');

3. any third party holding assets belonging to one of the persons mentioned under points (1) or (2).

Article 5

1. The requested authority shall acknowledge receipt of the request for information as soon as possible and in any event within seven days of such receipt.

2. Immediately upon receipt of the request the requested authority shall, where appropriate, ask the applicant authority to provide any additional information necessary. The applicant authority shall provide all additional necessary information to which it normally has access.

Article 6

1. The requested authority shall transmit each item of requested information to the applicant authority as and when it is obtained.

2. Where all or some of the requested information cannot be obtained within a reasonable time, having regard to the particular case, the requested authority shall so inform the applicant authority, indicating the reasons therefore.

In any event, at the end of six months from the date of acknowledgement of receipt of the request, the requested authority shall inform the applicant authority of the outcome of the investigations which it has conducted in order to obtain the information requested.

In the light of the information received from the requested authority, the applicant authority may request the latter to continue its investigation. That request shall be made within two months of the receipt of the notification of the outcome of the investigations carried out by the requested authority, and shall be treated by the requested authority in accordance with the provisions applying to the initial request.

Article 7

If the requested authority decides not to comply with the request for information, it shall notify the applicant authority of the reasons for the refusal to comply with the request, specifying the provisions of Article 4 of Directive 2008/55/EC on which it relies. Such notification shall be given by the requested authority as soon as it has taken its decision and in any event within three months of the date of the acknowledgement of the receipt of the request.

Article 8

The applicant authority may at any time withdraw the request for information which it has sent to the requested authority. The decision to withdraw shall be transmitted to the requested authority.

CHAPTER III

REQUESTS FOR NOTIFICATION

Article 9

The request for notification referred to in Article 5 of Directive 2008/55/EC shall comprise the set of data and information contained in the model of the form set out in Annex II to this Regulation.

The original or a certified copy of the instrument or decision, notification of which is requested, shall be attached to the request.

Article 10

The request for notification may relate to any natural or legal person who, in accordance with the law in force in the Member State of the applicant authority, is required to be informed of any instrument or decision which concerns that person.

In so far as such is not indicated in the instrument or decision of which notification is requested, the request for notification shall refer to the rules in force in the Member State of the applicant authority governing the procedure for contestation of the claim or for its recovery.

Article 11

1. The requested authority shall acknowledge receipt of the request for notification as soon as possible and in any event within seven days of such receipt.

Immediately upon receipt of the request for notification, the requested authority shall take the necessary measures to effect notification in accordance with the law in force in the Member State in which it is situated.

If necessary, but without jeopardising the final date for notification indicated in the request for notification, the requested authority shall ask the applicant authority to provide additional information.

The applicant authority shall provide all additional information to which it normally has access.

2. The requested authority shall inform the applicant authority of the date of notification as soon as this has been effected, by certifying the notification in the request form returned to the applicant authority.

CHAPTER IV

REQUESTS FOR RECOVERY OR FOR PRECAUTIONARY MEASURES

Article 12

1. Requests for recovery or for precautionary measures referred to in Articles 6 and 13 respectively of Directive 2008/55/EC shall comprise the set of data and information contained in the model of the form set out in Annex III to this Regulation.

Such requests shall include a declaration that the conditions laid down in Directive 2008/55/EC for initiating the mutual assistance procedure have been fulfilled.

2. The original or a certified copy of the instrument permitting enforcement shall accompany the request for recovery or for precautionary measures. A single instrument may be issued in respect of several claims where they concern one and the same person.

For the purposes of Articles 13 to 20 of this Regulation, all claims covered by the same instrument permitting enforcement shall be deemed to constitute a single claim.

Article 13

Requests for recovery or for precautionary measures may relate to any person referred to in Article 4.

Article 14

1. If the currency of the Member State of the requested authority is different from the currency of the Member State of the applicant authority, the applicant authority shall express the amount of the claim to be recovered in both currencies.

2. The rate of exchange to be used for the purposes of paragraph 1 shall be the latest selling rate recorded on the most representative exchange market or markets of the Member State of the applicant authority on the date when the request for recovery is sent.

Article 15

1. The requested authority shall, as soon as possible and in any event within seven days of receipt of the request for recovery or for precautionary measures:

(a) acknowledge receipt of the request;

(b) ask the applicant authority to complete the request if it does not contain the information or other particulars mentioned in Article 7 of Directive 2008/55/EC.

2. If the requested authority does not take the requisite action within the three-month period laid down in Article 8 of Directive 2008/55/EC, it shall, as soon as possible and in any event within seven days of the expiry of that period, inform the applicant authority of the grounds for its failure to comply with the time limit.

Article 16

Where, within a reasonable time having regard to the particular case, all or part of the claim cannot be recovered or precautionary measures cannot be taken, the requested authority shall so inform the applicant authority, indicating the reasons therefore.

No later than at the end of each six-month period following the date of acknowledgement of the receipt of the request, the requested authority shall inform the applicant authority of the state of progress or the outcome of the procedure for recovery or for precautionary measures.

In the light of the information received from the requested authority, the applicant authority may request the latter to re-open the procedure for recovery or for precautionary measures. That request shall be made within two months of the receipt of the notification of the outcome of that procedure, and shall be treated by the requested authority in accordance with the provisions applying to the initial request.

Article 17

1. Any action contesting the claim or the instrument permitting its enforcement which is taken in the Member State of the applicant authority shall be notified to the requested authority by the applicant authority immediately after the latter has been informed of such action.

2. If the laws, regulations and administrative practices in force in the Member State of the requested authority do not permit precautionary measures or the recovery requested under the second subparagraph of Article 12(2) of Directive 2008/55/EC, the requested authority shall notify the applicant authority to that effect as soon as possible and in any event within one month of the receipt of the notification referred to in paragraph 1.

3. Any action which is taken in the Member State of the requested authority for reimbursement of sums recovered or for compensation in relation to recovery of contested claims under the second subparagraph of Article 12(2) of Directive 2008/55/EC shall be notified to the applicant authority by the requested authority immediately after the latter has been informed of such action.

The requested authority shall as far as possible involve the applicant authority in the procedures for settling the amount to be reimbursed and the compensation due. Upon a reasoned request from the requested authority, the applicant authority shall transfer the sums reimbursed and the compensation paid within two months of the receipt of that request.

Article 18

1. If the request for recovery or for precautionary measures becomes devoid of purpose as a result of payment of the claim or of its cancellation or for any other reason, the applicant authority shall immediately inform the requested authority so that the latter may stop any action which it has undertaken.

2. Where the amount of the claim which is the subject of the request for recovery or for precautionary measures is adjusted for any reason, the applicant authority shall inform the requested authority, and if necessary issue a new instrument permitting enforcement.

3. If the adjustment entails a reduction in the amount of the claim, the requested authority shall continue the action which it has undertaken with a view to recovery or to the taking of precautionary measures, but that action shall be limited to the amount still outstanding.

If, at the time when the requested authority is informed of the reduction in the amount of the claim, an amount exceeding the amount still outstanding has already been recovered by it but the transfer procedure referred to in Article 19 has not yet been initiated, the requested authority shall repay the amount overpaid to the person entitled thereto.

4. If the adjustment entails an increase in the amount of the claim, the applicant authority shall as soon as possible address to the requested authority an additional request for recovery or for precautionary measures.

That additional request shall, as far as possible, be dealt with by the requested authority at the same time as the original request from the applicant authority. Where, in view of the state of progress of the existing procedure, consolidation of the additional request with the original request is not possible, the requested authority shall be required to comply with the additional request only if it concerns an amount not less than that referred to in Article 25(2).

5. In order to convert the adjusted amount of the claim into the currency of the Member State of the requested authority, the applicant authority shall use the exchange rate used in its original request.

Article 19

Any sum recovered by the requested authority, including, where applicable, the interest referred to in Article 9(2) of Directive 2008/55/EC, shall be transferred to the applicant authority in the currency of the Member State of the requested authority. The transfer shall take place within one month of the date on which recovery was effected.

The competent authorities of the Member States may agree different arrangements for the transfer of amounts below the threshold referred to in Article 25(2) of this Regulation.

Article 20

Irrespective of any amounts collected by the requested authority by way of the interest referred to in Article 9(2) of Directive 2008/55/EC, the claim shall be deemed to have been recovered in proportion to the recovery of the amount expressed in the national currency of the Member State of the requested authority, on the basis of the exchange rate referred to in Article 14(2) of this Regulation.

CHAPTER V

TRANSMISSION OF COMMUNICATIONS

Article 21

1. All assistance requests, instruments permitting enforcement and copies of these instruments, and any other accompanying documents, as well as any other information communicated with regard to these requests shall, as far as possible, be transmitted by electronic means, via the CCN/CSI network.

Such documents transmitted in electronic form or print outs thereof shall be deemed to have the same legal effect as documents transmitted by post.

2. If the applicant authority sends a copy of the instrument permitting enforcement or of any other document, it shall certify the conformity of this copy with the original, by stating in this copy, in the official language or one of the official languages of the Member State in which it is situated, the words 'certified a true copy', the name of the certifying official and the date of this certification.

3. If requests for mutual assistance are transmitted by electronic means, the structure and the lay-out of the models referred to in the first paragraph of Article 3, the first paragraph of Article 9 and in Article 12(1) may be adapted to the requirements and possibilities of the electronic communication system, provided that the content of information is not altered.

4. If a request cannot be transmitted by electronic means, it shall be transmitted by post. In that case, the request shall be signed by an official of the applicant authority, duly authorised to make such a request.

Article 22

Each Member State shall designate a central office with principal responsibility for communication by electronic means with other Member States. That office shall be connected to the CCN/CSI network.

Where several authorities are appointed in a Member State for the purpose of applying this Regulation, the central office shall be responsible for the forwarding of all communication by electronic means between those authorities and the central offices of other Member States.

Article 23

1. Where the competent authorities of the Member States store information in electronic data bases and exchange such information by electronic means, they shall take all measures necessary to ensure that any information communicated in whatever form pursuant to this Regulation is treated as confidential.

It shall be covered by the obligation of professional secrecy and shall enjoy the protection extended to similar information under the national law of the Member State which received it.

2. The information referred to in paragraph 1 may be made available only to the persons and authorities referred to in Article 16 of Directive 2008/55/EC.

Such information may be used in connection with judicial or administrative proceedings initiated for the recovery of levies, duties, taxes and other measures referred to in Article 2 of Directive 2008/55/EC.

Persons duly accredited by the Security Accreditation Authority of the European Commission may have access to this information only in so far as is necessary for the care, maintenance and development of the CCN/CSI network.

3. Where the competent authorities of the Member States communicate by electronic means, they shall take all measures necessary to ensure that all communications are duly authorised.

Article 24

Information and other particulars communicated by the requested authority to the applicant authority shall be conveyed in the official language or one of the official languages of the Member State of the requested authority or in another language agreed between the applicant and requested authorities.

CHAPTER VI

ELIGIBILITY AND REFUSAL OF REQUESTS FOR ASSISTANCE

Article 25

1. A request for assistance may be made by the applicant authority in respect of either a single claim or several claims where those are recoverable from one and the same person.

2. No request for assistance may be made if the total amount of the relevant claim or claims listed in Article 2 of Directive 2008/55/EC is less than EUR 1 500.

Article 26

If the requested authority decides, pursuant to the first paragraph of Article 14 of Directive 2008/55/EC, to refuse a request for assistance, it shall notify the applicant authority of the reasons for the refusal. Such notification shall be given by the requested authority as soon as it has taken its decision and in any event within three months of the date of receipt of the request for assistance.

CHAPTER VII

REIMBURSEMENT ARRANGEMENTS

Article 27

Each Member State shall appoint at least one official duly authorised to agree reimbursement arrangements under Article 18(3) of Directive 2008/55/EC.

Article 28

1. If the requested authority decides to request reimbursement arrangements it shall notify the applicant authority of the reasons for its view that recovery of the claim poses a specific problem, entails very high costs or relates to the fight against organised crime.

The requested authority shall append a detailed estimate of the costs for which it requests reimbursement by the applicant authority.

2. The applicant authority shall acknowledge receipt of the request for reimbursement arrangements as soon as possible and in any event within seven days of receipt.

Within two months of the date of acknowledgement of receipt of the said request, the applicant authority shall inform the requested authority whether and to what extent it agrees with the proposed reimbursement arrangements.

3. If no agreement is reached between the applicant and requested authority with respect to reimbursement arrangements, the requested authority shall continue recovery procedures in the normal way.

CHAPTER VIII

FINAL PROVISIONS

Article 29

Each Member State shall inform the Commission before 15 March each year, as far as possible by electronic means, of the use made of the procedures laid down in Directive 2008/55/EC and of the results achieved in the previous calendar year.

The communication of that information shall comprise the elements contained in the model of the form set out in Annex IV to this Regulation.

Communication of any additional information, relating to the nature of the claims for which recovery assistance was requested or granted, shall comprise the elements contained in the model of the form set out in Annex V to this Regulation.

Article 30

Each Member State shall notify the other Member States and the Commission of the name and address of the competent authorities for the purpose of applying this Regulation, as well as of the officials authorised to agree arrangements under Article 18(3) of Directive 2008/55/EC.

Article 31

Directive 2002/94/EC is hereby repealed.

The references to that Directive shall be construed as references to this Regulation.

Article 32

This Regulation shall enter into force on 1 January 2009.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 28 November 2008.

For the Commission
László KOVÁCS
Member of the Commission

ANNEX I

Reference (*): AA_RA_aaaaaaaaaaaa_rrrrrrrrrrrr_20YYMMDD_x(xxx)_RI

(*) **Reference number:**

— AA: ISO code of the Member State (MS) of the applicant authority

— RA: ISO code of the MS of the requested authority

— aaaaaaaaaaaa: reference number (alphanumeric) of the applicant authority

— rrrrrrrrrrrr: reference number (alphanumeric) of the requested authority

— 20YYMMDD: date on which the initial request is sent (Year, Month, Date)

— x(xxx): indicates the nature of the claim (to be understood in accordance with Article 2 of Directive 2008/55/EC):

  — a: agricultural levies (see Article 2(a))

  — b: sugar levies (see Article 2(b))

  — c: import duties (see Article 2(c))

  — d: export duties (see Article 2(d))

  — e: value added tax (see Article 2(e))

  — f: excise duties (see Article 2(f))

  — g: taxes on income and capital (see Article 2(g))

  — h: taxes on insurance premiums (see Article 2(h))

  Example: 'cef' = import duties + value added tax + excise duties

  Note: the request must be filled out in accordance with the competence of the requested authority!

— RI = request for information (RN = request for notification; RR = request for recovery and/or precautionary measures)

(*) **Instructions on how to fill out this form:**

— Within each box of this form, please click on the appropriate ☐.

— Within each box, the underlined parts must be filled out.

— The other data should be provided if available. Providing the maximum information will help the requested authority to send a better or faster response.

<table>
<tr><td colspan="2">REQUEST FOR INFORMATION
Based on Article 4 of Directive 2008/55/EC</td></tr>
<tr><td colspan="2">1. MEMBER STATE OF THE APPLICANT AUTHORITY</td></tr>
<tr><td>A. Applicant authority

Country:
Name:
Telephone:

Name of the official dealing with the request:</td><td>B. Office initiating the request

Name:
Address:
Postcode:
Town:
Telephone:
E-mail:
Reference of the file:
Name of the official dealing with the request:</td></tr>
<tr><td colspan="2">2. MEMBER STATE OF THE REQUESTED AUTHORITY</td></tr>
<tr><td>A. Requested authority

Country:
Name:
Telephone:

Name of the official dealing with the request:</td><td>B. Office handling the request

Name:
Address:
Postcode:
Town:
Telephone:
E-mail:
Reference of the file:
Name of the official dealing with the request:</td></tr>
</table>

3. CONFIRMATION CONCERNING THE FULFILMENT OF THE CONDITIONS FOR REQUESTING ASSISTANCE

A. **Age of the claim(s)**

This request concerns a claim (claims) which, at the date of the initial request for assistance, is (are):

☐ not more than 5 years old,

☐ more than 5 years old,

dating from the moment the instrument permitting the recovery was established (for contested claims or instruments: from the moment at which the claim or the instrument may no longer be contested) (Article 14(b) of Directive 2008/55/EC).

☐ For claims of more than 5 years old: This request is based on the following circumstances: **Common language or translation required**

☐ This request is connected with the request of 20YY/MM/DD, which was processed by the requested authority under reference number:

B. **Amount of the claim(s)**

The total amount of all claim(s) (inclusive of interest, penalties and costs) is (in currencies of both Member States):

4. INFORMATION RELATING TO THE REQUEST MADE

A. **Other requested authorities:**

☐ A similar request is sent to the following competent authority(ies) within the Member State of the requested authority:

☐ A similar request is sent to the following competent authority(ies) within the following Member State(s):

B. **Non-disclosure of this request to the person concerned**

☐ I, applicant authority, ask the requested authority not to inform the person(s) concerned about this request.

5. INFORMATION RELATING TO THE PERSON CONCERNED

A. **Information is requested with regard to:**

☐ *For natural persons:*
First name(s):
Surname:
Maiden name (name at birth):
Date of birth:
Place of birth:
VAT number:
Tax Identification Number:
Other identification data:

☐ *Or for legal entities:*
Company name:
Legal status:
VAT number:
Tax Identification Number:
Other identification data:

B. **Address of this person/legal entity:** ☐ known — ☐ assumed

Street and number:
Details of address:
Postcode and town:
Country:

C. **Liability**

1. **The person concerned is:**
   - ☐ the principal debtor (Article 4(1) of this Regulation)
   - ☐ co-debtor (Article 4(2) of this Regulation)
   - ☐ a third party holding assets (Article 4(3) of this Regulation)

2. **Principal debtor if different from person concerned:**

   ☐ *For natural persons:*
   First name(s):
   Surname:

   ☐ *Or for legal entities:*
   Company name:
   Legal status:

   Address: ☐ known — ☐ assumed
   Street and number:
   Details of address:
   Postcode and town:
   Country:

3. **If relevant: assets of the debtor held by a third party: Common language or translation required**

D. **Other relevant information concerning the above persons: Common language or translation required**

6. INFORMATION REQUESTED

☐ Information about the identity of the person concerned (for natural persons: full name, date and place of birth; for legal entities: company name and legal status)

☐ Information about the address

☐ Information about the income and assets for recovery

☐ Other: **Common language or translation required**

7. FOLLOW-UP OF THE REQUEST FOR INFORMATION

Date	No	Message	Applicant authority	Requested authority
	A	**On receipt of the request:**		
YY/MM/DD	**0** ☐	I, requested authority, acknowledge receipt of the request.		
YY/MM/DD	**1** ☐	I, requested authority, do not have competence for any of the taxes to which the request relates.		
YY/MM/DD	**2** ☐ ☐	I, requested authority, do not provide assistance for claims **a** which are more than 5 years old (Article 14(b) of Directiv 2008/55/EC). **b** of which the total amount is less than EUR 1 500 (Article 25(2) of this Regulation).		
YY/MM/DD	**3** ☐	I, requested authority, invite the applicant authority to complete the request with the following additional information: **Common language or translation required**		
YY/MM/DD	**4** ☐ ☐	I, applicant authority, **a** provide on request the following additional information: **Common language or translation required** **b** I am not able to provide the requested additional information (because: **Common language or translation required**)		
YY/MM/DD	**5** ☐	I, requested authority, acknowledge receipt of the additional information and am now in a position to proceed		

	B	**At any time, but at the latest within six months from the date of receipt of the request:**
	6	I, requested authority:
YY/MM/DD	☐	cannot provide the information within six months. (☐ I have asked information from other public bodies) (☐ I have asked information from a third party) (☐ I am arranging a personal call) (☐ other reason: **Common language or translation required**)
YY/MM/DD	☐	transmit the following part of the requested information:
YY/MM/DD	☐	Transmit all (or the final part of) the requested information:
	☐	**a** identity confirmed
	☐	**b** address confirmed
	☐	**c** Following data about the identity of the person concerned have changed (or are added): *For natural persons:* ☐ First name(s): ☐ Surname: ☐ Maiden name: ☐ Date of birth: ☐ Place of birth: *For legal entities:* ☐ Legal Status: ☐ Company name:
	☐	**d** Following address data have changed (or are added): ☐ Street and number: ☐ Details of address: ☐ Postcode and town: ☐ Country: ☐ Telephone: ☐ Fax: ☐ E-mail:
	☐	**e** Financial situation ☐ Employment details: ☐ Employee — ☐ Self-employed — ☐ Unemployed ☐ It seems that the person concerned has no means to settle the debt/no assets to cover recovery ☐ Person concerned is bankrupt/insolvent: — Date of order: — Date of release: — Liquidators details: … Name: … Street and number: … Details of address: … Postcode and town: … Country: ☐ It seems that the person concerned has: ☐ limited means to partially settle the debt ☐ sufficient means/assets for recovery ☐ Comments: **Common language or translation required**
	☐	**f** I recommend proceeding with recovery procedures
	☐	**g** I recommend not proceeding with recovery procedures
	☐	**h** Debt disputed ☐ person concerned has been advised to contest the claim in the Member State of the applicant authority ☐ references of the dispute, if available: ☐ further details attached
	☐	**i** Debtor deceased on YYYY/MM/DD
	☐	**j** Name and address of heirs/will executor:
	☐	**k** Other comments: **Common language or translation required**

YY/MM/DD	**7** The requested information cannot be obtained because: ☐ **a** person concerned is not known. ☐ **b** insufficient data for identification of person concerned. ☐ **c** person concerned has moved away, address unknown. ☐ **d** other reason: **Common language or translation required**
YY/MM/DD	**8** I, requested authority, refuse to comply with the request for the following reason: ☐ **a** I am not able to obtain this information for the purpose of recovering similar national claims. ☐ **b** this would disclose a commercial, industrial or professional secret. ☐ **c** the disclosure of this information would be liable to prejudice the security or be contrary to the public policy of the State.
YY/MM/DD	**9** I, applicant authority, ☐ withdraw my request for information.

ANNEX II

Reference (*): AA_RA_aaaaaaaaaaaa_rrrrrrrrrrrr_20YYMMDD_x(xxx)_RN

(*) **Reference number:**

— AA: ISO code of the Member State (MS) of the applicant authority

— RA: ISO code of the MS of the requested authority

— aaaaaaaaaaaa: reference number (alphanumeric) of the applicant authority

— rrrrrrrrrrrr: reference number (alphanumeric) of the requested authority

— 20YYMMDD: date on which the initial request is sent (Year, Month, Date)

— x(xxx): indicates the nature of the claim (to be understood in accordance with Article 2 of Directive 2008/55/EC):

  — a: agricultural levies (see Article 2(a))

  — b: sugar levies (see Article 2(b))

  — c: import duties (see Article 2(c))

  — d: export duties (see Article 2(d))

  — e: value added tax (see Article 2(e))

  — f: excise duties (see Article 2(f))

  — g: taxes on income and capital (see Article 2(g))

  — h: taxes on insurance premiums (see Article 2(h))

  Example: 'cef' = import duties + value added tax + excise duties

  Note: the request must be filled out in accordance with the competence of the requested authority!

— RN = request for notification (RI = request for information; RR = request for recovery and/or precautionary measures)

(*) **Instructions on how to fill out this form:**

— Within each box of this form, please click on the appropriate ☐.

— Within each box, the underlined parts must be filled out.

— The other data should be provided if available. Providing the maximum information will help the requested authority to send a better or faster response.

REQUEST FOR NOTIFICATION Based on Article 5 of Directive 2008/55/EC	
1. MEMBER STATE OF THE APPLICANT AUTHORITY	
A. **Applicant authority** Country: Name: Telephone: Name of the official dealing with the request:	B. **Office initiating the request** Name: Address: Postcode: Town: Telephone: E-mail: Reference of the file: Name of the official dealing with the request:
2. MEMBER STATE OF THE REQUESTED AUTHORITY	
A. **Requested authority** Country: Name: Telephone: Name of the official dealing with the request:	B. **Office handling the request** Name: Address: Postcode: Town: Telephone: E-mail: Reference of the file: Name of the official dealing with the request:

3. CONFIRMATION CONCERNING THE FULFILMENT OF THE CONDITIONS FOR REQUESTING ASSISTANCE

A. **Age of the claim(s)**

This request concerns a claim (claims) which, at the date of the initial request for assistance, is (are):

☐ not more than 5 years old,

☐ more than 5 years old,

dating from the moment the instrument permitting the recovery was established (for contested claims or instruments: from the moment at which the claim or the instrument may no longer be contested) (Article 14(b) of Directive 2008/55/EC).

☐ For claims of more than 5 years old: This request is based on the following circumstances: **Common language or translation required**

☐ This request is connected with the request of 20YY/MM/DD, which was processed by the requested authority under reference number:

B. **Amount of the claim(s)**

The total amount of all claim(s)(inclusive of interest, penalties and costs) is (in currencies of both Member States) is:

4. INFORMATION RELATING TO THE PERSON CONCERNED

A. **This request is made in relation to:**

☐ *For natural persons:*

First name(s):

Surname:

Maiden name (name at birth):

Date of birth:

Place of birth:

VAT number:

Tax Identification Number:

Other identification data:

☐ *Or for legal entities:*

Company name:

Legal status:

VAT number:

Tax Identification Number:

Other identification data:

B. **Address of this person/legal entity:** ☐ known — ☐ assumed

Street and number:

Details of address:

Postcode and town:

Country:

C. **Liability:**

1. **The person concerned is:**
   - ☐ the principal debtor (Article 4(1) of this Regulation)
   - ☐ co-debtor (Article 4(2) of this Regulation)
   - ☐ a third party holding assets (Article 4(3) of this Regulation)
2. **Principal debtor if different from person concerned:**

☐ *For natural persons:*

First name(s):

Surname:

☐ *Or for legal entities:*

Company name:

Legal status:

Address: ☐ known — ☐ assumed

Street and number:

Details of address:

Postcode and town:

Country:

D. **Other relevant information concerning the above persons: Common language or translation required**

5. NOTIFICATION REQUESTED

A. Identification of the document(s) attached (example: reference, date, title, …):

B. Final date for notification of these documents (if necessary): 20YY/MM/DD

C. Other comments: **Common language or translation required**

6. FOLLOW-UP OF THE REQUEST FOR NOTIFICATION

Date	No	Message	Applicant authority	Requested authority
YY/MM/DD	**0** ☐	I, requested authority, acknowledge receipt of the request.		
YY/MM/DD	**1** ☐	I, requested authority, do not have competence for any of the taxes to which the request relates.		
YY/MM/DD	**2** ☐ ☐	I, requested authority, do not provide assistance for claims **a** which are more than 5 years old (Article 14(b) of Directive 2008/55/EC). **b** of which the total amount is less than EUR 1 500 (Article 25(2) of this Regulation).		
YY/MM/DD	**3** ☐	I, requested authority, invite the applicant authority to complete the request with the following additional information:		
YY/MM/DD	**4** ☐ ☐	I, applicant authority, **a** provide on request the following additional information: **Common language or translation required** **b** I am not able to provide the requested additional information (because: **Common language or translation required**)		
YY/MM/DD	**5** ☐	I, requested authority, acknowledge receipt of the additional information and am now in a position to proceed.		
YY/MM/DD	**6** ☐ ☐	I, requested authority, certify: **a** that the above-mentioned document(s) [see box 5.A.] has (have) been notified to the natural person/legal entity referred to in Box 4, with legal effect according to the national legislation of the Member State of the requested authority, on 20YY/MM/DD. The notification was made in the following manner: ☐ to the addressee in person ☐ by mail ☐ by registered mail ☐ by bailiff ☐ by another procedure **b** that the above-mentioned document(s) could not be notified to the person concerned for the following reasons: ☐ addressee(s) not known ☐ addressee(s) deceased ☐ addressee(s) has (have) left the Member State. New address: ☐ other: **Common language or translation required**		
YY/MM/DD	**7** ☐	I, applicant authority, withdraw my request for information.		

ANNEX III

Reference (*): AA_RA_aaaaaaaaaaaa_rrrrrrrrrrrr_20YYMMDD_x(xxx)_RR

(*) **Reference number:**

— AA: ISO code of the Member State (MS) of the applicant authority

— RA: ISO code of the MS of the requested authority

— aaaaaaaaaaaa: reference number (alphanumeric) of the applicant authority

— rrrrrrrrrrrr: reference number (alphanumeric) of the requested authority

— 20YYMMDD: date on which the initial request is sent (Year, Month, Date)

— x(xxx): indicates the nature of the claim (to be understood in accordance with Article 2 of Directive 2008/55/EC):

  — a: agricultural levies (see Article 2(a))

  — b: sugar levies (see Article 2(b))

  — c: import duties (see Article 2(c))

  — d: export duties (see Article 2(d))

  — e: value added tax (see Article 2(e))

  — f: excise duties (see Article 2(f))

  — g: taxes on income and capital (see Article 2(g))

  — h: taxes on insurance premiums (see Article 2(h))

  Example: 'cef' = import duties + value added tax + excise duties

  Note: the request must be filled out in accordance with the competence of the requested authority!

— RR = request for recovery/and or precautionary measures (RI = request for information; RN = request for notification)

(*) **Instructions on how to fill out this form:**

— Within each box of this form, please click on the appropriate ☐.

— Within each box, the underlined parts must be filled out.

— The other data should be provided if available. Providing the maximum information will help the requested authority to send a better or faster response.

<table>
<tr><td colspan="2">REQUEST FOR ☐ RECOVERY MEASURES
Based on Article 6 of Directive 2008/55/EC
AND/OR ☐ PRECAUTIONARY MEASURES
Based on Article 13 of Directive 2008/55/EC</td></tr>
<tr><td colspan="2">1. MEMBER STATE OF THE APPLICANT AUTHORITY</td></tr>
<tr><td>A. Applicant authority

Country:
Name:
Telephone:

Name of the official dealing with the request:</td><td>B. Office initiating the request

Name:
Address:
Postcode:
Town:
Telephone:
E-mail:
Reference of the file:
Name of the official dealing with the request:</td></tr>
<tr><td colspan="2">2. MEMBER STATE OF THE REQUESTED AUTHORITY</td></tr>
<tr><td>A. Requested authority

Country:
Name:
Telephone:

Name of the official dealing with the request:</td><td>B. Office handling the request

Name:
Address:
Postcode:
Town:
Telephone:
E-mail:
Reference of the file:
Name of the official dealing with the request:</td></tr>
</table>

3. INFORMATION CONCERNING CONDITIONS FULFILLED (IN SO FAR AS REQUIRED)

☐ This request concerns a claim (claims) which, at the date of the initial request for assistance, is (are):

☐ not more than 5 years old,

☐ more than 5 years old,

dating from the moment the instrument permitting the recovery was established (for contested claims or instruments: from the moment at which the claim or the instrument may no longer be contested) (Article 14(b) of Directive 2008/55/EC).

☐ For claims of more than 5 years old: This request is based on the following circumstances: **Common language or translation required**

☐ This request is connected with the request of 20YY/MM/DD, which was processed by the requested authority under reference number:

☐ The total amount of all claim(s)(inclusive of interest, penalties and costs) is not less than EUR 1 500.

☐ The claim(s) is (are) the subject of an instrument permitting the enforcement (see attached document) (Article 7(1) of Directive 2008/55/EC).

☐ The claim(s) is (are) not contested (Article 7(2)(a) and Article 12(2) of Directive 2008/55/EC).

☐ The claim(s) may no longer be contested by an administrative appeal/by an appeal to the courts (Article 7(2)(a) and Article 12(2) of Directive 2008/55/EC).

☐ The claim(s) is (are) contested but the laws, regulations and administrative practices in force in the State of the applicant authority allow recovery of a contested claim (Article 12(2) of Directive 2008/55/EC).

☐ Appropriate recovery procedures have been applied in the Member State of the applicant authority but will not result in the payment in full of the claim (Article 7(2)(b) of Directive 2008/55/EC).

4. INFORMATION CONCERNING THE REQUEST(S) MADE

☐ A similar request is sent to the following competent authority(ies) within the Member State of the requested authority:

☐ A similar request is sent to the following competent authority(ies) within the following Member State(s):

☐ I request not to inform the debtor/other person concerned before the precautionary measures have been taken.

☐ Identification of the document(s) attached (example: reference, date, title, …)

5. PAYMENT INSTRUCTIONS

A. Please remit the amount of the claim recovered to:

— Bank account number (IBAN):

— Bank identification code (BIC):

— Name of the bank:

— Name of the account holder:

— Address of the account holder:

— Payment reference to be used at the transfer of the money:

B. Payment by instalment is:

☐ acceptable without further consultation

☐ only acceptable after consultation (Please use box 7, point 18 for this consultation)

☐ not acceptable

6. INFORMATION RELATING TO THE PERSON CONCERNED

A. **Recovery/precautionary measures are requested with regard to:**

☐ *For natural persons:*

First name(s):

Surname:

Maiden name (name at birth):

Date of birth:

Place of birth:

VAT number:

Tax Identification Number:

Other identification data:

☐ *Or for legal entities:*

Legal status:

Company name:

VAT number:

Tax Identification Number:

Other identification data:

B. **Address of this person/legal entity:** ☐ known — ☐ assumed

Street and number:

Details of address:

Postcode and town:

Country:

C. **Liability:**

1. **The person concerned is:**
   - ☐ the principal debtor (Article 4(1) of this Regulation)
   - ☐ co-debtor (Article 4(2) of this Regulation)
   - ☐ a third party holding assets (Article 4(3) of this Regulation)
2. **Principal debtor if different from person concerned:**

   ☐ *For natural persons:*

   First name(s):

   Surname:

   ☐ *Or for legal entities:*

   Legal status:

   Company name:

   Address: ☐ known — ☐ assumed

   Street and number:

   Details of address:

   Postcode and town:

   Country:
3. **If relevant: assets of the debtor held by a third party: Common language or translation required**

D. **Other relevant information concerning the above persons: Common language or translation required**

7. FOLLOW-UP OF THE REQUEST FOR RECOVERY AND/OR PRECAUTIONARY MEASURES				
Date	**No**	**Message**	**Applicant authority**	**Requested authority**
	A	**On receipt of the request**		
YY/MM/DD	**0**	I, requested authority, ☐ acknowledge receipt of the request (Article 15(1)(a) of this Regulation).		
YY/MM/DD	**1**	I, requested authority, do not have competence for ☐ **a** the tax(es) to which your request relates. ☐ **b** the following tax(es) of your request (indicate the letter):		
YY/MM/DD	**2**	I, requested authority, do not provide assistance for claims ☐ **a** which are more than 5 years old (Article 14(b) of Directive 2008/55/EC). ☐ **b** Of which the total amount is less than EUR 1 500 (Article 25(2) of this Regulation).		
YY/MM/DD	**3**	I, requested authority, will not take the requested action(s), for the following reasons: ☐ **a** my national legislation and practice does not allow recovery measures for claims that are contested. ☐ **b** my national legislation and practice does not allow precautionary measures for claims that are contested.		
YY/MM/DD	**4**	I, requested authority, ☐ invite the applicant authority to complete the request with the following additional information: **Common language or translation required**		
YY/MM/DD	**5**	I, applicant authority, ☐ **a** provide on request the following additional information: ☐ **b** am not able to provide the requested additional information (because: **Common language or translation required**)		
YY/MM/DD	**6**	I, requested authority, acknowledge receipt of the additional information and am now in a position to proceed. ☐		
	B	**Immediately when the action is taken and at the latest at the end of each period of six months from the date of the receipt of the request.**		
	7	I, requested authority, have conducted the following procedures for recovery and/or precautionary measures:		
YY/MM/DD	☐	**a** I established contact with the debtor and requested payment on 20YY/MM/DD.		
YY/MM/DD	☐	**b** I am negotiating payment by instalment.		
YY/MM/DD	☐	**c** I have commenced enforcement procedures on 20YY/MM/DD. The following actions have been taken: **Common language or translation required**		
	☐	**d** I have commenced precautionary measures on 20YY/MM/DD. The following actions have been taken: **Common language or translation required**		
	☐	**e** I, requested authority, ask to be informed whether the measures which I have taken (described under point c and/or d above) have interrupted or suspended the time limit for recovery and, if so, what the new time limit is.		
YY/MM/DD	**8**	Procedures are still going on. I, requested authority, will inform applicant authority when changes occur. ☐		
YY/MM/DD	**9**	I, applicant authority, confirm that, as a result of the action mentioned under point 7, the time limit has been changed. The new time limit is indicated in box 8. ☐		

	C	At any time
YY/MM/DD	**10**	I, requested authority, inform the applicant authority that:
	☐ **a**	the claim has been fully recovered on 20YY/MM/DD — of which the following amount (indicate the currency of the Member State of the requested authority) relates to the claim as mentioned in the request: — of which the following amount relates to the interest charged under the laws of the Member State of the requested authority (in accordance with Article 9(2) of Directive 2008/55/EC):
YY/MM/DD	☐ **b**	the claim has been partly recovered on 20YY/MM/DD, — for the amount of (indicate the currency of the Member State of the requested authority): — of which the following amount relates to the claim as mentioned in the request: — of which the following amount relates to the interest charged under the laws of the Member State of the requested authority (in accordance with Article 9(2) of Directive 2008/55/EC): ☐ I will take no further action. ☐ I will continue recovery procedures.
YY/MM/DD	☐ **c**	precautionary measures have been taken. (The requested authority is invited to indicate the nature of these measures: **Common language or translation required**)
YY/MM/DD	☐ **d**	the following payment by instalment has been agreed:
YY/MM/DD	**11**	I, requested authority, confirm that all or part of the claim could not be recovered/precautionary measures will not be taken, and the case will be closed because:
	☐ **a1**	The person concerned is not known.
	☐ **a2**	The person concerned is known, but moved to:
	☐ **a3**	The person concerned is known, but moved to an unknown address.
	☐ **b**	The person concerned is deceased on YYYY/MM/DD.
	☐ **c**	Debtor/co-debtor is insolvent.
	☐ **d**	Debtor/co-debtor is bankrupt and the claim has been lodged. Date of order: 20YY/MM/DD — Date of release: 20YY/MM/DD
	☐ **e**	Debtor/co-debtor is bankrupt/no recovery possible
	☐ **f**	Others: **Common language or translation required**
YY/MM/DD	**12**	I, applicant authority, confirm that the case is closed.
	☐	
YY/MM/DD	**13** ☐	I, requested authority, inform the applicant authority that I have received notification that an action has been launched contesting the claim or the instrument permitting its enforcement and will suspend enforcement procedures. Further,
	☐ **a**	I have taken precautionary measures to ensure recovery of the claim on 20YY/MM/DD.
	☐ **b**	I ask the applicant authority to inform me whether I should recover the claim.
	☐ **c**	I inform the applicant authority that the laws, regulations and administrative practices in force in the Member State in which I am situated do not permit (continued) recovery of the claim as long as it is contested.
YY/MM/DD	**14**	I, applicant authority, having been informed that an action has been launched contesting the claim or the instrument permitting its enforcement,
	☐ **a**	ask the requested authority to suspend any action which it has undertaken.
	☐ **b**	ask the requested authority to take precautionary measures to ensure recovery of the claim.
	☐ **c**	ask the requested authority to (continue to) recover the claim.

YY/MM/DD	**15**	I, requested authority, inform the applicant authority that:
	☐ **a**	the laws, regulations and administrative practices in force in the Member State in which I am situated do not permit the action requested:
		☐ under point 14(b).
		☐ under point 14(c).
	☐ **b**	I, requested authority, inform the applicant authority that I will proceed in accordance with the request mentioned
		☐ under point 14(a).
		☐ under point 14(b).
		☐ under point 14(c).
YY/MM/DD	**16**	I, applicant authority,
	☐ **a**	amend the request for recovery/precautionary measures as mentioned in the revised box 8 'Information relating to the claim(s)',
		☐ in accordance with the decision about the contested claim, delivered on 20YY/MM/DD by the body competent in this matter;
		☐ because part of the claim was paid directly to the applicant authority;
		☐ for another reason: **Common language or translation required**
	☐ **b**	ask the requested authority to resume enforcement procedures since the contestation was not favourable to the debtor (decision of the body competent in this matter of 20YY/MM/DD).
YY/MM/DD	**17**	I, applicant authority, withdraw this request for recovery/precautionary measures because:
	☐ **a**	the amount was paid directly to the applicant authority.
	☐ **b**	the time limit for recovery action has elapsed.
	☐ **c**	the claim(s) has (have) been annulled by a national court or by an administrative body.
	☐ **d**	the instrument permitting enforcement has been annulled.
	☐ **e**	other reason: **Common language or translation required**
	D	**Other**
YY/MM/DD	**18**	Other: **Common language or translation required** (Please start each comment by indicating the date)
	☐	

8. INFORMATION RELATING TO THE CLAIM(S)

- ☐ initial claim(s), for which the request for mutual assistance was sent on 20YY/MM/DD.
- ☐ revised claim on the decision of an administrative body or a court of 20YY/MM/DD.
- ☐ revised claim because partial payment was made directly to the applicant authority.

Currency of the Applicant Authority (AA):
Currency of the Requested Authority (RA):
Exchange rate used:

Identification of the claim [1]	Principal amount [2] [3]	Amount of administrative penalties and fines [2] [3]	Amount of interest up to date of the request [2] [3]	Amount of the costs up to date of the request [2] [3]	Total amount of the claim [2] [3]	Date on which enforcement becomes possible	Last day of the limitation period
Ref.: Nature: Name: Period: Date establishment: 20YY/MM/DD Date notification: 20YY/MM/DD	*Currency AA:* *Currency RA:*	*Currency AA:* *Currency RA:*	*Currency AA:* *Currency RA:*	*Currency AA:* *Currency RA:*	*Currency AA:* *Currency RA:*	20YY/MM/DD	20YY/MM/DD
Ref.: Nature: Name: Period: Date establishment: 20YY/MM/DD Date notification: 20YY/MM/DD	*Currency AA:* *Currency RA:*	*Currency AA:* *Currency RA:*	*Currency AA:* *Currency RA:*	*Currency AA:* *Currency RA:*	*Currency AA:* *Currency RA:*	20YY/MM/DD	20YY/MM/DD
Ref.: Nature: Name: Period: Date establishment: 20YY/MM/DD Date notification: 20YY/MM/DD	*Currency AA:* *Currency RA:*	*Currency AA:* *Currency RA:*	*Currency AA:* *Currency RA:*	*Currency AA:* *Currency RA:*	*Currency AA:* *Currency RA:*	20YY/MM/DD	20YY/MM/DD
Ref.: Nature: Name: Period: Date establishment: 20YY/MM/DD Date notification: 20YY/MM/DD	*Currency AA:* *Currency RA:*	*Currency AA:* *Currency RA:*	*Currency AA:* *Currency RA:*	*Currency AA:* *Currency RA:*	*Currency AA:* *Currency RA:*	20YY/MM/DD	20YY/MM/DD

Overall total amount of the claims: in the currency of the AA: .... — in the currency of the RA: .... — in EUR: ....

Other information: **Common language or translation required**

(1) For each claim: reference number; nature of the claim (Article 2 points (a) to (h) of Directive 2008/55/EC; name of the tax concerned in the Member State of the AA; period covered by the claim; date of establishment of the claim; date of notification (see Article 7(3)(e) of Directive 2008/55/EC).
(2) Amounts should preferably be specified for each claim separately.
(3) Amounts expressed in the currency of the Member State of the applicant authority and of the Member State of the requested authority.

ANNEX IV

Model A for the communication of statistics on the use of the mutual recovery assistance — general information

Requests for mutual assistance on recovery of claims received and sent by:					**in the year:**							
Member State	**Requests for information**		**Requests for notification**		**Requests for recovery**							
					Requests received from:				Requests sent to:			
	number received from:	number sent to:	number received from:	number sent to:	number	amount of the claims involved	amounts of the claims recovered for requests made during the year (1)		number	amount of the claims involved	amounts of the claims recovered for requests made during the year (1)	
							amount in EUR (2)	year			amount in EUR (3)	year
BE — België/Belgique												
BG — България (Bulgaria)												
CZ — Česká Republika												
DK — Danmark												
DE — Deutschland												
IE — Ireland												
EE — Eesti												
EL — Ελλάδα (Ellas)												
ES — España												
FR — France												
IT — Italia												
CY — Κύπρος (Kypros)												
LV — Latvija												
LT — Lietuva												
LU — Luxembourg												
HU — Magyarország												
MT — Malta												
NL — Nederland												
AT — Österreich												
PL — Polska												
PT — Portugal												
RO — România												
SI — Slovenija												
SK — Slovensko												
FI — Suomi/Finland												
SE — Sverige												
UK — United Kingdom												
Total	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**

(1) Please split the total amounts recovered according to the year of request to which they relate.

(2) Effectively recovered (no amounts for which precautionary measures have been taken or deferred payment has been agreed).

(3) These amounts also include any debt, for which mutual assistance has been requested, paid directly by the debtor to the requesting Member State.

ANNEX V

Model B for the communication of statistics on the use of mutual recovery assistance — information on the nature of the claims

Requests for recovery sent or received by:	**in the year:**			
Nature of the claims concerned	requests sent		requests received	
	amount of the claims involved	amounts of the claims recovered (7)	amount of the claims involved	amounts of the claims recovered (8)
claims of Article 2(a) to (d) of Directive 2008/55/EC (1) (6)				
claims of Article 2(e) of Directive 2008/55/EC (2) (6)				
claims of Article 2(f) of Directive 2008/55/EC (3) (6)				
claims of Article 2(g) of Directive 2008/55/EC (4) (6)				
claims of Article 2(h) of Directive 2008/55/EC (5) (6)				
Total	**0**	**0**	**0**	**0**

(1) Agricultural and sugar levies, import and export duties.
(2) VAT.
(3) Excise duties.
(4) Taxes on income and capital.
(5) Taxes on insurance premiums.
(6) Including interest, administrative penalties and fines, and costs.
(7) These amounts also include any debt, for which mutual assistance has been requested, paid directly by the debtor to the requesting Member State.
(8) Effectively recovered (no amounts for which precautionary measures have been taken or deferred payment has been agreed).

COMMISSION REGULATION (EC) No 1180/2008

of 28 November 2008

establishing a system for the communication of information on certain supplies of beef, veal and pigmeat to the territory of the Russian Federation

(Codified version)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) [1] and in particular Article 170 and Article 192, in conjunction with Article 4 thereof,

Whereas:

(1) Commission Regulation (EC) No 2584/2000 of 24 November 2000 establishing a system for the communication of information on certain supplies of beef, veal and pigmeat to the territory of the Russian Federation [2] has been substantially amended [3]. In the interests of clarity and rationality the said Regulation should be codified.

(2) Article 2 of Protocol 2 on mutual administrative assistance for the correct application of customs legislation annexed to the Agreement on Partnership and Cooperation establishing a partnership between the European Communities and their Member States, of the one part, and the Russian Federation, of the other part [4], provides that the parties are to assist each other in ensuring that customs legislation is correctly applied, in particular by the prevention, detection and investigation of contraventions of that legislation. To implement that administrative assistance, the Commission, represented by the European Anti-Fraud Office (hereinafter referred to as 'OLAF') and the Russian authorities have concluded an arrangement establishing a mechanism for the communication of information on movements of goods between the Community and the Russian Federation.

(3) As part of that administrative assistance, specifically in relation to the transport of beef, veal and pigmeat products bound for the Russian Federation, the information which operators must forward to the competent authorities of the Member States and the system for communicating that information between the competent authorities of the Member States, OLAF and the Russian authorities should be laid down.

(4) That information and the system of communication introduced should make it possible to trace exports of the products concerned to the Russian Federation and, where appropriate, detect cases in which a refund is not due and must be recovered.

(5) Application of the provisions of this Regulation will be evaluated after a significant period of operation. The review carried out on that basis may, where appropriate, lead to their extension to exports of other products and involve financial consequences where obligations are or are not met.

(6) Article 16(4) of Commission Regulation (EC) No 800/1999 of 15 April 1999 laying down common detailed rules for the application of the system of export refunds on agricultural products [5], specifies that the Commission may provide in certain specific cases for proof of import to be furnished by specific documents or in some other way. Consequently, for the exports provided for by this Regulation, the information from the Russian authorities should be considered a new source of proof supplementing the existing sources of proof.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation shall apply to consignments of beef, veal and pigmeat products falling within CN codes 0201, 0202 and 0203 bound for the territory of the Russian Federation ('Russia') for which the export declarations are accompanied by an export refund application.

[1] OJ L 299, 16.11.2007, p. 1.
[2] OJ L 298, 25.11.2000, p. 16.
[3] See Annex I.
[4] OJ L 327, 28.11.1997, p. 48.
[5] OJ L 102, 17.4.1999, p. 11.

This Regulation shall not apply to consignments as referred to in the first paragraph of a quantity less than 3 000 kilograms.

Article 2

Exporters wishing to benefit from the provisions of Article 4(2) shall communicate to the central body designated by each Member State of export, for each export declaration, within 10 working days of the date of unloading of the products in Russia, the following information:

(a) the export declaration number, the customs office of export and the date on which the export customs formalities were completed;

(b) a description of the goods, indicating the eight-figure product code of the combined nomenclature;

(c) the net quantity in kilograms;

(d) the TIR carnet number or the reference number of the Russian DKD internal transit document, or the number of the TD1/IM40 declaration of release for home use in Russia;

(e) the container number, if applicable;

(f) the identification number and/or the name of the means of transport at the time of entry of the consignment in Russia;

(g) the licence number of the warehouse under customs supervision to which the product was delivered in Russia;

(h) the date of delivery of the product to the warehouse under customs supervision in Russia.

Article 3

1. The central body in the Member State concerned referred to in Article 2 shall forward the information it receives to OLAF by electronic mail within two working days of the date of receipt.

2. The information referred to in Article 2, and an identification number for each export operation, shall be sent by OLAF to the Russian customs authorities upon receipt.

3. OLAF shall inform the central body in the Member State concerned, as appropriate, of the Russian customs authorities reply, within two working days of receipt of that reply; or of the failure by those authorities to reply, within two working days of the end of the three-week period laid down for a reply by the Russian authorities under the administrative arrangement concluded with them.

Article 4

1. The information referred to in Articles 1 and 2 shall not constitute additional requirements to those laid down for the grant of export refunds in the sectors concerned.

2. Where it is positive, the reply of the Russian authorities, as referred to in Article 3(3), shall be regarded as proof that the customs import formalities have been completed in accordance with Article 16(1) of Regulation (EC) No 800/1999.

Article 5

Regulation (EC) No 2584/2000 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex II.

Article 6

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 28 November 2008.

For the Commission
Jacques BARROT
Vice-President

ANNEX I

Repealed Regulation with its successive amendment

Commission Regulation (EC) No 2584/2000	(OJ L 298, 25.11.2000, p. 16)
Regulation (EC) No 44/2003	(OJ L 7, 11.1.2003, p. 58)

ANNEX II

Correlation table

Regulation (EC) No 2584/2000	This Regulation
Articles 1-4	Articles 1-4
—	Article 5
Article 5(1)	Article 6
Article 5(2)	—
—	Annex I
—	Annex II

COMMISSION REGULATION (EC) No 1181/2008

of 28 November 2008

amending Regulation (EC) No 616/2007 opening and providing for the administration of Community tariff quotas in the sector of poultrymeat originating in Brazil, Thailand and other third countries

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) [1], and in particular Articles 144(1) and 148 in conjunction with Article 4 thereof,

Having regard to Council Decision 2007/360/EC of 29 May 2007 on the conclusion of Agreements in the form of Agreed Minutes between the European Community and the Federal Republic of Brazil, and between the European Community and the Kingdom of Thailand pursuant to Article XXVIII of the General Agreement on Tariffs and Trade 1994 (GATT 1994) relating to the modification of concessions with respect to poultry meat [2], and in particular Article 2 thereof,

Whereas:

(1) Article 5(2) of Commission Regulation (EC) No 616/2007 [3] stipulates that a security of EUR 50 per 100 kilograms must be lodged at the time of submission of a licence application.

(2) In view of the new conditions applicable to imports of products originating in Brazil, the amount of the security relating to the licence should be set at an appropriate level to ensure proper management of the tariff quotas and satisfactory access to them for operators.

(3) In view of the reduction in the security, and also in order to ensure proper management, the maximum quantity for which each operator is entitled to apply for Group No 1 quotas should be increased.

(4) Regulation (EC) No 616/2007 should therefore be amended accordingly.

(5) As the application period for the next subperiod begins on 1 December 2008, it is essential that this Regulation applies from that date.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

Article 4(5) of Regulation (EC) No 616/2007 is replaced by the following:

'5. Licence applications must be for a minimum of 100 tonnes and a maximum of 10 % of the quantity available for the quota concerned in the period or subperiod in question. However, for Group Nos 2 and 3, the maximum quantity for licence applications shall be 5 % of the quantity available for the quota concerned in the period or subperiod in question.

For Group Nos 3, 6 and 8, the minimum quantity for licence applications shall be reduced to 10 tonnes.'

Article 2

Article 5(2) of Regulation (EC) No 616/2007 is replaced by the following:

'2. A security of EUR 50 per 100 kilograms shall be lodged at the time of submission of the licence application.

However, for applications concerning Group Nos 1, 4 and 7, the security shall be set at EUR 10 per 100 kilograms.'

[1] OJ L 299, 16.11.2007, p. 1.
[2] OJ L 138, 30.5.2007, p. 10.
[3] OJ L 142, 5.6.2007, p. 5.

Article 3

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Union*.

It shall apply from 1 December 2008.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 28 November 2008.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

COMMISSION REGULATION (EC) No 1182/2008

of 28 November 2008

fixing for 2009 the amount of aid in advance for private storage of butter

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) [1], and in particular Article 43(a) and (d) in conjunction with Article 4 thereof,

Whereas:

(1) Article 28 of Regulation (EC) No 1234/2007 provides for the granting of private storage aid for butter.

(2) Developments in prices and stocks of butter indicate an imbalance in the market which may be eliminated or reduced by the seasonal storage. In view of the current market situation it is appropriate to grant aid for private storage of butter as from 1 January 2009.

(3) Commission Regulation (EC) No 826/2008 of 20 August 2008 laying down common rules for granting of an aid for private storage for certain agricultural products [2] has established common rules for the implementation of private storage aid scheme.

(4) Pursuant to Article 6 of Regulation (EC) No 826/2008, an aid fixed in advance is to be granted in accordance with the detailed rules and conditions provided for in Chapter III of that Regulation.

(5) To facilitate the implementation of the present measure taking into consideration the existing practice in the Member States, Article 7(3) of Regulation (EC) No 826/2008 should relate only to products that have been fully placed into storage. Consequently, derogation from that Article should be introduced.

(6) In accordance with Article 29 of Regulation (EC) No 1234/2007 the aid shall be fixed in the light of storage costs and the likely trends in prices for fresh butter and butter from stocks.

(7) It is appropriate to fix an aid for the costs for entry and exit of products concerned and for daily costs for cold storage and financing.

(8) For reasons of administrative efficiency and simplification, where the required information concerning storage details are already included in the application for aid, it is appropriate to waive the requirement to notify the same information after the conclusion of the contract as provided for in Article 20, first paragraph, point (a) of Regulation (EC) No 826/2008.

(9) For reasons of simplification and logistic efficiency, the requirement to mark the contract number on each unit stored could be waived where the contracts number is entered in the stores register.

(10) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation provides for private storage aid for salted and unsalted butter as referred to in Article 28(a) of Regulation (EC) No 1234/2007 for the contracts concluded in 2009.

Article 2

1. Regulation (EC) No 826/2008 shall apply save as otherwise provided for in this Regulation.

2. By way of derogation from Article 7(3) of Regulation (EC) No 826/2008 applications shall only relate to products that have been fully placed into storage.

Article 3

The unit of measurement referred to in Article 16(2)(c) of Regulation (EC) No 826/2008 is the 'storage lot' which corresponds to the quantity of the product covered by this Regulation, weighing at least one tonne and of homogeneous composition and quality, produced in a single factory, taken into storage in a single warehouse on a single day.

[1] OJ L 299, 16.11.2007, p. 1.
[2] OJ L 223, 21.8.2008, p. 3.

Article 4

1. The aid for the products referred to in Article 1 shall be:

— EUR 15,62 per tonne of storage for fixed storage costs,

— EUR 0,44 per tonne per day of contractual storage.

2. Entry into contractual storage shall take place between 1 January and 15 August 2009. Removal from store may take place only as from 16 August 2009. Contractual storage shall end on the day preceding that of the removal from storage or at the latest the last day of February following the year of entry into store.

3. Aid may be granted only where the contractual storage period is between 90 and 227 days.

Article 5

Member States shall notify the Commission each Tuesday by 12 noon (Brussels time) the quantities for which contracts have been concluded as required under Article 35(1)(a) of Regulation (EC) No 826/2008, as well as the quantities of products for which applications to conclude contracts have been submitted.

Article 6

1. Article 20, first paragraph, point (a) of Regulation (EC) No 826/2008 shall not apply.

2. Member States may waive the requirements referred to in Article 22(1)(e) of Regulation (EC) No 826/2008 to mark the contract number provided the store manager undertakes to enter the contract number in the register referred to in Annex I point III to that Regulation.

Article 7

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

It shall apply to applications for aid submitted as from 1 January 2009.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 28 November 2008.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

COMMISSION REGULATION (EC) No 1183/2008

of 28 November 2008

amending Regulation (EC) No 1019/2002 on marketing standards for olive oil

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ([1]), and in particular Articles 113(1)(a) and 121(h) in conjunction with Article 4 thereof,

Whereas:

(1) Commission Regulation (EC) No 1019/2002 ([2]) provides for a system designating certain optional references for olive oils. Under Article 5(c) of that Regulation, indications of organoleptic properties of virgin olive oils may appear on the labelling only if they are based on the results of a method of analysis provided for in Commission Regulation (EEC) No 2568/91 of 11 July 1991 on the characteristics of olive oil and olive-residue oil and on the relevant methods of analysis ([3]). In accordance with Article 12(2) of Regulation (EC) No 1019/2002, this provision shall apply from 30 November 2008.

(2) The research into new organoleptic evaluation methods launched by the International Olive Council (IOC) with a view to expanding the range of positive characteristics of virgin olive oils was completed in November 2007. The adaptation of Community legislation to the revised IOC method involves amending Article 5(c) of Regulation (EC) No 1019/2002. This adaptation is part of the amendment of several rules on the labelling of olive oil which are due to enter into force on 1 July 2009. It would be inopportune, in particular for operators who will have to adapt the labelling of their products, to apply the current provisions of Article 5(c) for a limited period running from 30 November 2008 to 30 June 2009.

(3) The date from which Article 5(c) of Regulation (EC) No 1019/2002 applies should therefore be postponed until 1 July 2009.

(4) Regulation (EC) No 1019/2002 should be amended accordingly.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

The third subparagraph of Article 12(2) of Regulation (EC) No 1019/2002 is replaced by the following:

'Article 5(c) shall apply from 1 July 2009.'

Article 2

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

It shall apply from 30 November 2008.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 28 November 2008.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

([1]) OJ L 299, 16.11.2007, p. 1.
([2]) OJ L 155, 14.6.2002, p. 27.
([3]) OJ L 248, 5.9.1991, p. 1.

COMMISSION REGULATION (EC) No 1184/2008

of 28 November 2008

establishing a prohibition of fishing for herring in EC and international waters of Vb and VIb and VIaN by vessels flying the flag of France

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy [1], and in particular Article 26(4) thereof,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to common fisheries policy [2], and in particular Article 21(3) thereof,

Whereas:

(1) Council Regulation (EC) No 40/2008 of 16 January 2008 fixing for 2008 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks applicable in Community waters and for Community vessels, in waters where catch limitations are required [3], lays down quotas for 2008.

(2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein have exhausted the quota allocated for 2008.

(3) It is therefore necessary to prohibit fishing for that stock and its retention on board, transhipment and landing,

HAS ADOPTED THIS REGULATION:

Article 1

Quota exhaustion

The fishing quota allocated to the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2008 shall be deemed to be exhausted from the date set out in that Annex.

Article 2

Prohibitions

Fishing for the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein shall be prohibited from the date set out in that Annex. It shall be prohibited to retain on board, tranship or land such stock caught by those vessels after that date.

Article 3

Entry into force

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 28 November 2008.

For the Commission
Fokion FOTIADIS
Director-General for Maritime Affairs and Fisheries

[1] OJ L 358, 31.12.2002, p. 59.
[2] OJ L 261, 20.10.1993, p. 1.
[3] OJ L 19, 23.1.2008, p. 1.

ANNEX

No	62/T&Q
Member State	FRA
Stock	HER/5B6ANB.
Species	Herring (*Clupea harengus*)
Zone	EC and international waters of Vb and VIb and VIaN
Date	8.10.2008

COMMISSION REGULATION (EC) No 1185/2008

of 28 November 2008

establishing a prohibition of fishing for turbot in the Black Sea by vessels flying the flag of Bulgaria

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy [1], and in particular Article 26(4) thereof,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to common fisheries policy [2], and in particular Article 21(3) thereof,

Whereas:

(1) Council Regulation (EC) No 1579/2007 of 20 December 2007 fixing the fishing opportunities and the conditions relating thereto for certain fish stocks and groups of fish stocks applicable in the Black Sea for 2008 [3], lays down quotas for 2008.

(2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein have exhausted the quota allocated for 2008.

(3) It is therefore necessary to prohibit fishing for that stock and its retention on board, transhipment and landing,

HAS ADOPTED THIS REGULATION:

Article 1

Quota exhaustion

The fishing quota allocated to the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2008 shall be deemed to be exhausted from the date set out in that Annex.

Article 2

Prohibitions

Fishing for the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein shall be prohibited from the date set out in that Annex. It shall be prohibited to retain on board, tranship or land such stock caught by those vessels after that date.

Article 3

Entry into force

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 28 November 2008.

For the Commission
Fokion FOTIADIS
Director-General for Maritime Affairs and Fisheries

[1] OJ L 358, 31.12.2002, p. 59.
[2] OJ L 261, 20.10.1993, p. 1.
[3] OJ L 346, 29.12.2007, p. 1.

ANNEX

No	01/MED
Member State	BGR
Stock	TUR/F3742C
Species	Turbot (*Psetta maxima*)
Zone	Black Sea
Date	15.9.2008

COMMISSION REGULATION (EC) No 1186/2008

of 28 November 2008

fixing the import duties in the cereals sector applicable from 1 December 2008

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) [1],

Having regard to Commission Regulation (EC) No 1249/96 of 28 June 1996 laying down detailed rules for the application of Council Regulation (EEC) No 1766/92 in respect of import duties in the cereals sector [2], and in particular Article 2(1) thereof,

Whereas:

(1) Article 136(1) of Regulation (EC) No 1234/2007 states that the import duty on products falling within CN codes 1001 10 00, 1001 90 91, ex 1001 90 99 (high quality common wheat), 1002, ex 1005 other than hybrid seed, and ex 1007 other than hybrids for sowing, is to be equal to the intervention price valid for such products on importation increased by 55 %, minus the cif import price applicable to the consignment in question. However, that duty may not exceed the rate of duty in the Common Customs Tariff.

(2) Article 136(2) of Regulation (EC) No 1234/2007 lays down that, for the purposes of calculating the import duty referred to in paragraph 1 of that Article, representative cif import prices are to be established on a regular basis for the products in question.

(3) Under Article 2(2) of Regulation (EC) No 1249/96, the price to be used for the calculation of the import duty on products of CN codes 1001 10 00, 1001 90 91, ex 1001 90 99 (high quality common wheat), 1002 00, 1005 10 90, 1005 90 00 and 1007 00 90 is the daily cif representative import price determined as specified in Article 4 of that Regulation.

(4) Import duties should be fixed for the period from 1 December 2008 and should apply until new import duties are fixed and enter into force.

(5) However, in accordance with Commission Regulation (EC) No 608/2008 of 26 June 2008 temporarily suspending customs duties on imports of certain cereals for the 2008/2009 marketing year [3], the application of certain duties set by this Regulation is suspended,

HAS ADOPTED THIS REGULATION:

Article 1

From 1 December 2008, the import duties in the cereals sector referred to in Article 136(1) of Regulation (EC) No 1234/2007 shall be those fixed in Annex I to this Regulation on the basis of the information contained in Annex II.

Article 2

This Regulation shall enter into force on 1 December 2008.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 28 November 2008.

For the Commission

Jean-Luc DEMARTY

Director-General for Agriculture and Rural Development

[1] OJ L 299, 16.11.2007, p. 1.

[2] OJ L 161, 29.6.1996, p. 125.

[3] OJ L 166, 27.6.2008, p. 19.

ANNEX I

Import duties on the products referred to in Article 136(1) of Regulation (EC) No 1234/2007 applicable from 1 December 2008

CN code	Description	Import duties [1] (EUR/t)
1001 10 00	Durum wheat, high quality	0,00
	medium quality	0,00
	low quality	0,00
1001 90 91	Common wheat seed	0,00
ex 1001 90 99	High quality common wheat, other than for sowing	0,00
1002 00 00	Rye	23,12
1005 10 90	Maize seed other than hybrid	21,34
1005 90 00	Maize, other than seed [2]	21,34
1007 00 90	Grain sorghum other than hybrids for sowing	23,12

[1] For goods arriving in the Community via the Atlantic Ocean or via the Suez Canal the importer may benefit, under Article 2(4) of Regulation (EC) No 1249/96, from a reduction in the duty of:

— 3 EUR/t, where the port of unloading is on the Mediterranean Sea, or

— 2 EUR/t, where the port of unloading is in Denmark, Estonia, Ireland, Latvia, Lithuania, Poland, Finland, Sweden, the United Kingdom or the Atlantic coast of the Iberian peninsula.

[2] The importer may benefit from a flatrate reduction of EUR 24 per tonne where the conditions laid down in Article 2(5) of Regulation (EC) No 1249/96 are met.

ANNEX II

Factors for calculating the duties laid down in Annex I

14.11.2008-27.11.2008

1. Averages over the reference period referred to in Article 2(2) of Regulation (EC) No 1249/96:

(EUR/t)

	Common wheat (1)	Maize	Durum wheat, high quality	Durum wheat, medium quality (2)	Durum wheat, low quality (3)	Barley
Exchange	Minnéapolis	Chicago	—	—	—	—
Quotation	190,56	112,79	—	—	—	—
Fob price USA	—	—	241,10	231,10	211,10	125,25
Gulf of Mexico premium	—	12,34	—	—	—	—
Great Lakes premium	27,27	—	—	—	—	—

(1) Premium of 14 EUR/t incorporated (Article 4(3) of Regulation (EC) No 1249/96).
(2) Discount of 10 EUR/t (Article 4(3) of Regulation (EC) No 1249/96).
(3) Discount of 30 EUR/t (Article 4(3) of Regulation (EC) No 1249/96).

2. Averages over the reference period referred to in Article 2(2) of Regulation (EC) No 1249/96:

Freight costs: Gulf of Mexico–Rotterdam:	11,99 EUR/t
Freight costs: Great Lakes–Rotterdam:	10,09 EUR/t

DIRECTIVES

DIRECTIVE 2008/96/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 19 November 2008

on road infrastructure safety management

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 71(1)(c) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee [1],

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty [2],

Whereas:

(1) The trans-European road network defined in Decision No 1692/96/EC of the European Parliament and of the Council of 23 July 1996 on Community guidelines for the development of the trans-European transport network [3], is of paramount importance in supporting European integration and cohesion as well as ensuring a high level of well-being. In particular, a high level of safety should be guaranteed.

(2) In its White Paper of 12 September 2001 'European transport policy for 2010: time to decide' the Commission expressed the need to carry out safety impact assessments and road safety audits, in order to identify and manage high accident concentration sections within the Community. It also set the target of halving the number of deaths on the roads within the European Union between 2001 and 2010.

(3) In its Communication of 2 June 2003 'European Road Safety Action Programme, Halving the number of road accident victims in the European Union by 2010: A shared responsibility' the Commission identified road infrastructure as the third pillar of road safety policy, which should make an important contribution to the Community's accident reduction target.

(4) In recent years, major advances have been made in vehicle design (safety measures and the development and application of new technologies) which have helped to reduce the number of people killed or injured in road accidents. If the target set for 2010 is to be achieved, action must be taken in other areas too. Managing the safety of road infrastructure offers plenty of scope for improvement, which must be used to advantage.

(5) The setting up of appropriate procedures is an essential tool for improving the safety of road infrastructure within the trans-European road network. Road safety impact assessments should demonstrate, on a strategic level, the implications on road safety of different planning alternatives of an infrastructure project and they should play an important role when routes are being selected. The results of road safety impact assessments may be set out in a number of documents. Moreover, road safety audits should identify, in a detailed way, unsafe features of a road infrastructure project. It therefore makes sense to develop procedures to be followed in those two fields with the aim of increasing safety of road infrastructures on the trans-European road network, whilst at the same time excluding road tunnels which are covered by Directive 2004/54/EC of the European Parliament and of the Council of 29 April 2004 on minimum safety requirements for tunnels in the trans-European road network [4].

(6) Several Member States already possess well functioning road infrastructure safety management systems. These countries should be permitted to continue using their existing methods, in so far as they are consistent with the aims of this Directive.

(7) Research is vital to improving safety on the roads within the European Union. Developing and demonstrating components, measures and methods (including telematics) and disseminating research results play an important part in increasing the safety of road infrastructure.

[1] OJ C 168, 20.7.2007, p. 71.
[2] Opinion of the European Parliament of 19 June 2008 (not yet published in the Official Journal), and Council Decision of 20 October 2008.
[3] OJ L 228, 9.9.1996, p. 1.
[4] OJ L 167, 30.4.2004, p. 39.

(8) Safety performance of existing roads should be raised by targeting investments to the road sections with the highest accident concentration and/or the highest accident reduction potential. To be able to adapt their behaviour and increase compliance with traffic rules, in particular speed limits, drivers should be made aware of road sections with a high accident concentration.

(9) Network safety ranking has a high potential immediately after its implementation. Once road sections with a high accident concentration have been treated and remedial measures have been taken, safety inspections as a preventive measure should assume a more important role. Regular inspections are an essential tool for preventing possible dangers for all road users, including vulnerable users, and also in case of roadworks.

(10) Training and certification of safety personnel by means of training curricula and tools for qualification validated by the Member States should ensure that practitioners get the necessary up-to-date knowledge.

(11) With a view to improving safety on the roads within the European Union, arrangements should be made for more frequent and more consistent exchanges of best practices among the Member States.

(12) In order to ensure a high level of road safety on the roads within the European Union Member States should apply guidelines on infrastructure safety management. The notification of those guidelines to the Commission and regular reporting on their implementation should pave the way for the systematic improvement of infrastructure safety at Community level and provide a basis for the evolution towards a more effective system over time. The reporting on their implementation should, furthermore, allow other Member States to identify the most effective solutions, while the systematic collection of data from before/after studies should allow selecting the most effective measure for future action.

(13) The provisions of this Directive which relate to investment in road safety should apply without prejudice to the Member States' powers as regards investment in the upkeep of the road network.

(14) Since the objective of this Directive namely the establishment of procedures to ensure a consistently high level of road safety throughout the trans-European road network cannot be sufficiently achieved by the Member States and can therefore, by reason of the effects of the action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.

(15) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission [1].

(16) In particular the Commission should be empowered to adopt the criteria necessary for the improvement of road safety management practices and the adaptation of the annexes to technical progress. Since those measures are of general scope and are designed to amend non-essential elements of this Directive, *inter alia*, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

(17) Sufficient roadside parking areas are very important not only for crime prevention but also for road safety. Parking areas enable drivers to take rest breaks in good time and continue their journey with full concentration. The provision of sufficient safe parking areas should therefore form an integral part of road infrastructure safety management.

(18) In accordance with point 34 of the Interinstitutional Agreement on better law-making [2], Member States are encouraged to draw up, for themselves and in the interest of the Community, their own tables, which will, as far as possible, illustrate the correlation between this Directive and their transposition measures, and to make them public,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Subject matter and scope

1. This Directive requires the establishment and implementation of procedures relating to road safety impact assessments, road safety audits, the management of road network safety and safety inspections by the Member States.

2. This Directive shall apply to roads which are part of the trans-European road network, whether they are at the design stage, under construction or in operation.

3. Member States may also apply the provisions of this Directive, as a set of good practices, to national road transport infrastructure, not included in the trans-European road network, that was constructed using Community funding in whole or in part.

[1] OJ L 184, 17.7.1999, p. 23.
[2] OJ C 321, 31.12.2003, p. 1.

4. This Directive shall not apply to road tunnels covered by Directive 2004/54/EC.

Article 2

Definitions

For the purposes of this Directive, the following definitions shall apply:

1. 'trans-European road network' means the road network identified in Section 2 of Annex I to Decision No 1692/96/EC;

2. 'competent entity' means any public or private organisation set up at national, regional or local level, involved in the implementation of this Directive by reason of its competences, including bodies designated as competent entities which existed before the entry into force of this Directive, in so far as they meet the requirements of this Directive;

3. 'road safety impact assessment' means a strategic comparative analysis of the impact of a new road or a substantial modification to the existing network on the safety performance of the road network;

4. 'road safety audit' means an independent detailed systematic and technical safety check relating to the design characteristics of a road infrastructure project and covering all stages from planning to early operation;

5. 'ranking of high accident concentration sections' means a method to identify, analyse and rank sections of the road network which have been in operation for more than three years and upon which a large number of fatal accidents in proportion to the traffic flow have occurred;

6. 'network safety ranking' means a method for identifying, analysing and classifying parts of the existing road network according to their potential for safety development and accident cost savings;

7. 'safety inspection' means an ordinary periodical verification of the characteristics and defects that require maintenance work for reasons of safety;

8. 'guidelines' means measures adopted by Member States, which lay down the steps to be followed and the elements to be considered in applying the safety procedures set out in this Directive;

9. 'infrastructure project' means a project for the construction of new road infrastructure or a substantial modification to the existing network which affects the traffic flow.

Article 3

Road safety impact assessment for infrastructure projects

1. Member States shall ensure that a road safety impact assessment is carried out for all infrastructure projects.

2. The road safety impact assessment shall be carried out at the initial planning stage before the infrastructure project is approved. In that connection, Member States shall endeavour to meet the criteria set out in Annex I.

3. The road safety impact assessment shall indicate the road safety considerations which contribute to the choice of the proposed solution. It shall further provide all relevant information necessary for a cost-benefit analysis of the different options assessed.

Article 4

Road safety audits for infrastructure projects

1. Member States shall ensure that road safety audits are carried out for all infrastructure projects.

2. When carrying out road safety audits the Member States shall endeavour to meet the criteria set out in Annex II.

Member States shall ensure that an auditor is appointed to carry out an audit of the design characteristics of an infrastructure project.

The auditor shall be appointed in accordance with the provisions of Article 9(4) and shall have the necessary competence and training provided for in Article 9. Where audits are undertaken by teams, at least one member of the team shall hold a certificate of competence as referred to in Article 9(3).

3. Road safety audits shall form an integral part of the design process of the infrastructure project at the stage of draft design, detailed design, pre-opening and early operation.

4. Member States shall ensure that the auditor sets out safety critical design elements in an audit report for each stage of the infrastructure project. Where unsafe features are identified in the course of the audit but the design is not rectified before the end of the appropriate stage as referred to in Annex II, the reasons shall be stated by the competent entity in an Annex to that report.

5. Member States shall ensure that the report referred to in paragraph 4 shall result in relevant recommendations from a safety point of view.

Article 5

Safety ranking and management of the road network in operation

1. Member States shall ensure that the ranking of high accident concentration sections and the network safety ranking are carried out on the basis of reviews, at least every three years, of the operation of the road network. In that connection, Member States shall endeavour to meet the criteria set out in Annex III.

2. Member States shall ensure that road sections showing higher priority according to the results of the ranking of high accident concentration sections and from network safety ranking are evaluated by expert teams by means of site visits guided by the elements referred to in point 3 of Annex III. At least one member of the expert team shall meet the requirements set out in Article 9(4)(a).

3. Member States shall ensure that remedial treatment is targeted at the road sections referred to in paragraph 2. Priority shall be given to those measures referred to in point 3(e) of Annex III paying attention to those presenting the highest benefit-cost ratio.

4. Member States shall ensure that appropriate signs are in place to warn road users of road infrastructure segments that are undergoing repairs and which may thus jeopardise the safety of road users. These signs shall also include signs which are visible during both day and night time and set up at a safe distance and shall comply with the provisions of the Vienna Convention on Road Signs and Signals of 1968.

5. Member States shall ensure that road users are informed of the existence of a high accident concentration section by appropriate measures. If a Member State decides to use sign-posting, this shall comply with the provisions of the Vienna Convention on Road Signs and Signals of 1968.

Article 6

Safety inspections

1. Member States shall ensure that safety inspections are undertaken in respect of the roads in operation in order to identify the road safety related features and prevent accidents.

2. Safety inspections shall comprise periodic inspections of the road network and surveys on the possible impact of roadworks on the safety of the traffic flow.

3. Member States shall ensure that periodic inspections are undertaken by the competent entity. Such inspections shall be sufficiently frequent to safeguard adequate safety levels for the road infrastructure in question.

4. Without prejudice to the guidelines adopted pursuant to Article 8, Member States shall adopt guidelines on temporary safety measures applying to roadworks. They shall also implement an appropriate inspection scheme to ensure that those guidelines are properly applied.

Article 7

Data management

1. Member States shall ensure that for each fatal accident occurring on a road referred to in Article 1(2) an accident report is drawn up by the competent entity. Member States shall endeavour to include in that report each of the elements listed in Annex IV.

2. Member States shall calculate the average social cost of a fatal accident and the average social cost of a severe accident occurring in its territory. Member States may choose to further differentiate the cost rates, which shall be updated at least every five years.

Article 8

Adoption and communication of guidelines

1. Member States shall ensure that guidelines, if they do not already exist, are adopted by 19 December 2011, in order to support the competent entities in the application of this Directive.

2. Member States shall communicate these guidelines to the Commission within three months of their adoption or amendment.

3. The Commission shall make them available on a public website.

Article 9

Appointment and training of auditors

1. Member States shall ensure that, if they do not already exist, training curricula for road safety auditors are adopted by 19 December 2011.

2. Member States shall ensure that where road safety auditors carry out functions under this Directive, they undergo an initial training resulting in the award of a certificate of competence, and take part in periodic further training courses.

3. Member States shall ensure that road safety auditors hold a certificate of competence. Certificates awarded before the entry into force of this Directive shall be recognised.

4. Member States shall ensure that auditors are appointed in compliance with the following requirements:

(a) they have relevant experience or training in road design, road safety engineering and accident analysis;

(b) from two years after the adoption by the Member States of the guidelines pursuant to Article 8, road safety audits shall only be undertaken by auditors or teams to which auditors belong, meeting the requirements provided for in paragraphs 2 and 3;

(c) for the purpose of the infrastructure project audited, the auditor shall not at the time of the audit be involved in the conception or operation of the relevant infrastructure project.

Article 10

Exchange of best practices

In order to improve the safety of roads within the European Union that are not part of the trans-European road network, the Commission shall establish a coherent system for the exchange of best practices between the Member States, covering, *inter alia*, existing road infrastructure safety projects and proven road safety technology.

Article 11

Continuous improvement of safety management practices

1. The Commission shall facilitate and structure the exchange of knowledge and best practices between Member States, making use of the experience gained in existing relevant international forums, with a view to achieving continuous improvement of safety management practices concerning road infrastructures in the European Union.

2. The Commission shall be assisted by the Committee referred to in Article 13. In so far as the adoption of specific measures is required, such measures shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 13(3).

3. Where appropriate, relevant non-governmental organisations, active in the field of safety and management of road infrastructures, may be consulted on matters related to technical safety aspects.

Article 12

Adaptation to technical progress

The Annexes to this Directive shall be adapted to take account of technical progress in accordance with the regulatory procedure with scrutiny referred to in Article 13(3).

Article 13

Committee procedure

1. The Commission shall be assisted by a Committee.

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

Article 14

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 19 December 2010. They shall forthwith communicate to the Commission the text of those provisions.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 15

Entry into force

This Directive shall enter into force on the 20th day following the day of its publication in the *Official Journal of the European Union*.

Article 16

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 19 November 2008.

For the European Parliament	*For the Council*
The President	*The President*
H.-G. PÖTTERING	J.-P. JOUYET

ANNEX I

ROAD SAFETY IMPACT ASSESSMENT FOR INFRASTRUCTURE PROJECTS

1. Elements of a road safety impact assessment:

   (a) problem definition;

   (b) current situation and 'do nothing' scenario;

   (c) road safety objectives;

   (d) analysis of impacts on road safety of the proposed alternatives;

   (e) comparison of the alternatives, including cost-benefit analysis;

   (f) presentation of the range of possible solutions.

2. Elements to be taken into account:

   (a) fatalities and accidents, reduction targets against 'do nothing' scenario;

   (b) route choice and traffic patterns;

   (c) possible effects on the existing networks (e.g. exits, intersections, level crossings);

   (d) road users, including vulnerable users (e.g. pedestrians, cyclists, motorcyclists);

   (e) traffic (e.g. traffic volume, traffic categorisation by type);

   (f) seasonal and climatic conditions;

   (g) presence of a sufficient number of safe parking areas;

   (h) seismic activity.

ANNEX II

ROAD SAFETY AUDITS FOR INFRASTRUCTURE PROJECTS

1. Criteria at the draft design stage:

   (a) geographical location (e.g. exposure to landslides, flooding, avalanches), seasonal and climatic conditions and seismic activity;

   (b) types of and distance between junctions;

   (c) number and type of lanes;

   (d) kinds of traffic admissible to the new road;

   (e) functionality of the road in the network;

   (f) meteorological conditions;

   (g) driving speeds;

   (h) cross-sections (e.g. width of carriageway, cycle tracks, foot paths);

   (i) horizontal and vertical alignments;

   (j) visibility;

   (k) junctions layout;

   (l) public transport and infrastructures;

   (m) road/rail level crossings.

2. Criteria for the detailed design stage:

   (a) layout;

   (b) coherent road signs and markings;

   (c) lighting of lit roads and intersections;

   (d) roadside equipment;

   (e) roadside environment including vegetation;

   (f) fixed obstacles at the roadside;

   (g) provision of safe parking areas;

   (h) vulnerable road users (e.g. pedestrians, cyclists, motorcyclists);

   (i) user-friendly adaptation of road restraint systems (central reservations and crash barriers to prevent hazards to vulnerable users).

3. Criteria for the pre-opening stage:

   (a) safety of road users and visibility under different conditions such as darkness and under normal weather conditions;

   (b) readability of road signs and markings;

   (c) condition of pavements.

4. Criteria for early operation: assessment of road safety in the light of actual behaviour of users.

Audits at any stage may involve the need to reconsider criteria from previous stages.

ANNEX III

RANKING OF HIGH ACCIDENT CONCENTRATION SECTIONS AND NETWORK SAFETY RANKING

1. **Identification of road sections with a high accident concentration**

   The identification of road sections with a high accident concentration takes into account at least the number of fatal accidents that have occurred in previous years per unit of road length in relation to the volume of traffic and, in case of intersections, the number of such accidents per location of intersections.

2. **Identification of sections for analysis in network safety ranking**

   The identification of sections for analysis in network safety ranking takes into account their potential savings in accident costs. Road sections shall be classified into categories. For each category of roads, road sections shall be analysed and ranked according to safety-related factors, such as accidents concentration, traffic volume and traffic typology.

   For each road category, network safety ranking shall result in a priority list of road sections where an improvement of the infrastructure is expected to be highly effective.

3. Elements of evaluation for expert teams' site visits:

   (a) a description of the road section;

   (b) a reference to possible previous reports on the same road section;

   (c) the analysis of possible accident reports;

   (d) the number of accidents, of fatalities and of severely injured persons in the three previous years;

   (e) a set of potential remedial measures for realisation within different timescales considering for example:

   — removing or protecting fixed roadside obstacles,

   — reducing speed limits and intensifying local speed enforcement,

   — improving visibility under different weather and light conditions,

   — improving safety condition of roadside equipment such as road restraint systems,

   — improving coherence, visibility, readability and position of road markings (incl. application of rumble strips), signs and signals,

   — protecting against rocks falling, landslips and avalanches,

   — improving grip/roughness of pavements,

   — redesigning road restraint systems,

   — providing and improving median protection,

   — changing the overtaking layout,

   — improving junctions, including road/rail level crossings,

   — changing the alignment,

   — changing width of road, adding hard shoulders,

   — installing traffic management and control systems,

   — reducing potential conflict with vulnerable road users,

   — upgrading the road to current design standards,

   — restoring or replacing pavements,

   — using intelligent road signs,

   — improving intelligent transport systems and telematics services for interoperability, emergency and signage purposes.

ANNEX IV

ACCIDENT INFORMATION CONTAINED IN ACCIDENT REPORTS

Accident reports include the following elements:

1. precise as possible location of the accident;
2. pictures and/or diagrams of the accident site;
3. date and hour of accident;
4. information on the road such as area type, road type, junction type incl. signalling, number of lanes, markings, road surface, lighting and weather conditions, speed limit, roadside obstacles;
5. accident severity, including number of fatalities and injured persons, if possible according to common criteria to be defined in accordance with the regulatory procedure with scrutiny referred to in Article 13(3);
6. characteristics of the persons involved such as age, sex, nationality, alcohol level, use of safety equipment or not;
7. data on the vehicles involved (type, age, country, safety equipment if any, date of last periodical technical check according to applicable legislation);
8. accident data such as accident type, collision type, vehicle and driver manoeuvre;
9. whenever possible, information on the time elapsed between the time of the accident and the recording of the accident, or the arrival of the emergency services.

COMMISSION DIRECTIVE 2008/109/EC

of 28 November 2008

amending Annex IV to Council Directive 2000/29/EC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community [1], and in particular point (d) of the second paragraph of Article 14 thereof,

Whereas:

(1) Special requirements for wood packaging material and wood used to wedge or support non-wood cargo introduced into the Community are set out in Annex IV to Directive 2000/29/EC. They are based on the FAO International Standard for Phytosanitary Measures (ISPM) No 15 on 'Guidelines for regulating wood packaging material in international trade' [2].

(2) In addition to the requirements approved under ISPM No 15, Annex IV to Directive 2000/29/EC includes a requirement that imported wood packaging material be made from debarked wood. The application of that debarking requirement has been postponed twice.

(3) The Community has requested that ISPM No 15 be reviewed to include a requirement addressing the Community's concern about the risk posed by the presence of bark on such wood packaging material in international trade.

(4) The Technical Panel on Forest Quarantine (TPFQ), established under the auspices of the International Plant Protection Convention (IPPC) and composed of internationally recognised forestry experts, has now analysed the available research data on the phytosanitary risk posed by bark on wood packaging material. The TPFQ concluded that there is technical justification to require that wood packaging material in international trade should be free from bark with a precisely defined tolerance level for the presence of small pieces of bark ensuring that the phytosanitary risk is kept to an acceptable level and that such requirement should be included in the revised ISPM No 15.

(5) In order to protect the territory of the Community from the introduction of harmful organisms the Community requirements for the presence of bark on wood packaging material and dunnage should be brought in line with the TPFQ technical conclusions without waiting for the adoption of a revised ISPM No 15 by the IPPC Commission on Phytosanitary Measures.

(6) It is therefore appropriate to adapt the debarking requirement to that technically justified tolerance level for the presence of bark.

(7) Annex IV to Directive 2000/29/EC should therefore be amended accordingly.

(8) The requirement that wood packaging material be made from debarked round wood introduced by Commission Directive 2006/14/EC [3] amending Annex IV to Directive 2000/29/EC will apply from 1 January 2009. It is therefore necessary that the measures provided for in this Directive also apply from 1 January 2009. However, in order to allow third countries to make the necessary adaptations it is appropriate to provide that the bark requirement should apply as from 1 July 2009.

(9) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on Plant Health,

[1] OJ L 169, 10.7.2000, p. 1.
[2] ISPM No 15, March 2002, FAO, Rome.
[3] OJ L 34, 7.2.2006, p. 24.

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex IV to Directive 2000/29/EC is amended in accordance with the text in the Annex to this Directive.

Article 2

1. Member States shall adopt and publish, by 31 December 2008 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

They shall apply those provisions from 1 January 2009.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such a reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

This Directive shall enter into force on the third day following its publication in the *Official Journal of the European Union*.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 28 November 2008.

For the Commission
Androulla VASSILIOU
Member of the Commission

ANNEX

In Annex IV, Part A, Section I to Directive 2000/29/EC is amended as follows:

1. point 2 is replaced by the following:

'2. Wood packaging material, in the form of packing cases, boxes, crates, drums and similar packings, pallets, box pallets and other load boards, pallet collars, actually in use in the transport of objects of all kinds, except raw wood of 6 mm thickness or less, and processed wood produced by glue, heat and pressure, or a combination thereof, coming from third countries, except Switzerland.	The wood packaging material shall: — be free from bark with the exception of any number of individual pieces of bark if they are either less than 3 cm in width (regardless of the length) or, if greater than 3 cm in width, of not more than 50 cm^2 in area, and — be subject to one of the approved treatments as specified in Annex I to FAO International Standard for Phytosanitary Measures No 15 on *Guidelines for regulating wood packaging material in international trade*, and — display a mark as specified in Annex II to FAO International Standard for Phytosanitary Measures No 15 on *Guidelines for regulating wood packaging material in international trade*, indicating that the wood packaging material has been subjected to an approved phytosanitary treatment. The first indent shall only apply from 1 July 2009.'

2. point 8 is replaced by the following:

'8. Wood used to wedge or support non-wood cargo, including that which has not kept its natural round surface, except raw wood of 6 mm thickness or less and processed wood produced by glue, heat and pressure, or a combination thereof, coming from third countries, except Switzerland.	The wood shall: — be free from bark with the exception of any number of individual pieces of bark if they are either less than 3 cm in width (regardless of the length) or, if greater than 3 cm in width, of not more than 50 cm^2 in area, and — be subject to one of the approved treatments as specified in Annex I to FAO International Standard for Phytosanitary Measures No 15 on *Guidelines for regulating wood packaging material in international trade*, and — display a mark as specified in Annex II to FAO International Standard for Phytosanitary Measures No 15 on *Guidelines for regulating wood packaging material in international trade*, indicating that the wood has been subjected to an approved phytosanitary treatment. The first indent shall only apply from 1 July 2009.'

II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

DECISIONS

COMMISSION

COMMISSION DECISION

of 26 November 2008

amending Decision 2003/61/EC authorising certain Member States to provide for temporary derogations from certain provisions of Council Directive 2000/29/EC in respect of seed potatoes originating in certain provinces of Canada

(notified under document number C(2008) 7317)

(Only the Greek, Spanish, Italian, Maltese and Portuguese texts are authentic)

(2008/891/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community [1], and in particular Article 15(1) thereof,

Whereas:

(1) Pursuant to Directive 2000/29/EC, seed potatoes originating in Canada may not be introduced into the Community. However, that Directive permits derogations from that rule, provided there is no risk of spreading harmful organisms.

(2) Commission Decision 2003/61/EC [2], provides for a derogation for the importation of seed potatoes originating in certain provinces of Canada into Greece, Spain, Italy, Cyprus, Malta and Portugal subject to specific conditions.

(3) Portugal has asked for an extension of that derogation.

(4) The situation justifying that derogation remains unchanged and the derogations should therefore continue to apply.

(5) Decision 2003/61/EC should therefore be amended accordingly.

(6) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plant Health,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2003/61/EC is amended as follows:

1. Article 1(2)(c) is replaced by the following:

'(c) for the potato-marketing seasons from 1 February 2003 to 31 March 2003, from 1 December 2003 to 31 March 2004, from 1 December 2004 to 31 March 2005, from 1 December 2005 to 31 March 2006, from 1 December 2006 to 31 March 2007, from 1 December 2007 to 31 March 2008, from 1 December 2008 to 31 March 2009, from 1 December 2009 to 31 March 2010 and from 1 December 2010 to 31 March 2011.';

2. In Article 15 '31 March 2008' is replaced by '31 March 2011'.

[1] OJ L 169, 10.7.2000, p. 1.
[2] OJ L 23, 28.1.2003, p. 31.

Article 2

This Decision is addressed to the Hellenic Republic, the Kingdom of Spain, the Italian Republic, the Republic of Cyprus, the Republic of Malta and the Portuguese Republic.

Done at Brussels, 26 November 2008.

For the Commission
Androulla VASSILIOU
Member of the Commission

EUROPEAN CENTRAL BANK

DECISION OF THE EUROPEAN CENTRAL BANK

of 28 October 2008

on transitional provisions for the application of minimum reserves by the European Central Bank following the introduction of the euro in Slovakia

(ECB/2008/14)

(2008/892/EC)

THE EXECUTIVE BOARD OF THE EUROPEAN CENTRAL BANK,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank (hereinafter the 'ESCB Statute'), and in particular Article 19.1 and the first indent of Article 47.2 thereof,

Having regard to Council Regulation (EC) No 2531/98 of 23 November 1998 concerning the application of minimum reserves by the European Central Bank [1],

Having regard to Regulation (EC) No 1745/2003 of the European Central Bank of 12 September 2003 on the application of minimum reserves (ECB/2003/9) [2],

Having regard to Council Regulation (EC) No 2532/98 of 23 November 1998 concerning the powers of the European Central Bank to impose sanctions [3],

Having regard to Council Regulation (EC) No 2533/98 of 23 November 1998 concerning the collection of statistical information by the European Central Bank [4], and in particular Articles 5(1) and 6(4) thereof,

Having regard to Regulation (EC) No 2423/2001 of the European Central Bank of 22 November 2001 concerning the consolidated balance sheet of the monetary financial institutions sector (ECB/2001/13) [5],

Whereas:

(1) The adoption of the euro by Slovakia on 1 January 2009 means that credit institutions and branches of credit institutions located in Slovakia will be subject to reserve requirements from that date.

(2) The integration of these entities into the minimum reserve system of the Eurosystem requires the adoption of transitional provisions in order to ensure smooth integration without creating a disproportionate burden for credit institutions in participating Member States, including Slovakia.

(3) Article 5 of the ESCB Statute in conjunction with Article 10 of the Treaty establishing the European Community implies an obligation for Member States to design and implement at national level all the appropriate measures to collect the statistical information needed to fulfil the ECB's statistical reporting requirements and to ensure timely preparation in the field of statistics to adopt the euro,

HAS DECIDED AS FOLLOWS:

Article 1

Definitions

For the purposes of this Decision, the terms 'institution', 'reserve requirement', 'maintenance period', 'reserve base', and 'participating Member State' have the same meaning as in Regulation (EC) No 1745/2003 (ECB/2003/9).

[1] OJ L 318, 27.11.1998, p. 1.
[2] OJ L 250, 2.10.2003, p. 10.
[3] OJ L 318, 27.11.1998, p. 4.
[4] OJ L 318, 27.11.1998, p. 8.
[5] OJ L 333, 17.12.2001, p. 1.

Article 2

Transitional provisions for institutions located in Slovakia

1. In derogation from Article 7 of Regulation (EC) No 1745/2003 (ECB/2003/9), a transitional maintenance period shall run from 1 January 2009 to 20 January 2009 for institutions located in Slovakia.

2. The reserve base of each institution located in Slovakia for the transitional maintenance period shall be defined in relation to elements of its balance sheet as at 31 October 2008. Institutions located in Slovakia shall report their reserve base to Národná banka Slovenska in accordance with the ECB's reporting framework for money and banking statistics, as laid down in Regulation (EC) No 2423/2001 (ECB/2001/13). Institutions located in Slovakia that benefit from the derogation under Article 2(2) of Regulation (EC) No 2423/2001 (ECB/2001/13) shall calculate a reserve base for the transitional maintenance period on the basis of their balance sheet as at 30 September 2008.

3. In respect of the transitional maintenance period, either an institution located in Slovakia or Národná banka Slovenska shall calculate such institution's minimum reserves. The party that calculates the minimum reserves shall submit its calculation to the other party allowing sufficient time for the latter to verify it and submit revisions. The calculated minimum reserves, including any revisions thereof, if applicable, shall be confirmed by the two parties at the latest on 9 December 2008. If the notified party does not confirm the amount of minimum reserves by 9 December 2008, it shall be deemed to have acknowledged that the calculated amount applies for the transitional maintenance period.

4. The provisions of paragraphs 2 to 4 of Article 3 shall apply *mutatis mutandis* to institutions located in Slovakia so that these institutions may, for their initial maintenance periods, deduct from their reserve bases any liabilities owed to institutions in Slovakia, although at the time the minimum reserves are calculated such institutions will not appear on the list of institutions subject to reserve requirements in Article 2(3) of Regulation (EC) No 1745/2003 (ECB/2003/9).

Article 3

Transitional provisions for institutions located in other participating Member States

1. The maintenance period applicable to institutions located in other participating Member States pursuant to Article 7 of Regulation (EC) No 1745/2003 (ECB/2003/9) shall remain unaffected by the existence of a transitional maintenance period for institutions located in Slovakia.

2. Institutions located in other participating Member States may decide to deduct from their reserve base for the maintenance periods from 10 December 2008 to 20 January 2009 and from 21 January to 10 February 2009 any liabilities owed to institutions located in Slovakia, even though at the time the minimum reserves are calculated such institutions will not appear on the list of institutions subject to reserve requirements mentioned in Article 2(3) of Regulation (EC) No 1745/2003 (ECB/2003/9).

3. Institutions located in other participating Member States that wish to deduct liabilities owed to institutions located in Slovakia shall, for the maintenance periods from 10 December 2008 to 20 January 2009 and from 21 January to 10 February 2009, calculate their minimum reserves on the basis of their balance sheet at 31 October and 30 November 2008 respectively and report a table in accordance with footnote 5 of Table 1 of Annex I to Regulation (EC) No 2423/2001 (ECB/2001/13) showing institutions located in Slovakia as already subject to the ECB's minimum reserve system.

This shall be without prejudice to the obligation for institutions to report statistical information for the periods concerned in accordance with Table 1 of Annex I to Regulation (EC) No 2423/2001 (ECB/2001/13), still showing institutions located in Slovakia as being banks located in the 'Rest of the world'.

The tables shall be reported in accordance with the time limits and procedures laid down in Regulation (EC) No 2423/2001 (ECB/2001/13).

4. For the maintenance periods starting in December 2008, January and February 2009, institutions located in other participating Member States that benefit from the derogation under Article 2(2) of Regulation (EC) No 2423/2001 (ECB/2001/13) and wish to deduct liabilities owed to institutions located in Slovakia, shall calculate their minimum reserves on the basis of their balance sheet as at 30 September 2008 and report a table in accordance with footnote 5 of Table 1 of Annex I to Regulation (EC) No 2423/2001 (ECB/2001/13) showing institutions located in Slovakia as already subject to the ECB's minimum reserve system.

This shall be without prejudice to the obligation for institutions to report statistical information for the periods concerned in accordance with Table 1 of Annex I to Regulation (EC) No 2423/2001 (ECB/2001/13) still showing institutions located in Slovakia as being banks located in the 'Rest of the world'.

The tables shall be reported in accordance with the time limits and procedures laid down in Regulation (EC) No 2423/2001 (ECB/2001/13).

Article 4

Entry into force and application

1. This Decision is addressed to Národná banka Slovenska, institutions located in Slovakia and institutions located in other participating Member States.

2. This Decision shall enter into force on 1 November 2008.

3. In the absence of specific provisions in this Decision, the provisions of Regulations (EC) No 1745/2003 (ECB/2003/9) and (EC) No 2423/2001 (ECB/2001/13) shall apply.

Done at Frankfurt am Main, 28 October 2008.

The President of the ECB

Jean-Claude TRICHET

DECISION OF THE EUROPEAN CENTRAL BANK

of 17 November 2008

laying down the framework for joint Eurosystem procurement

(ECB/2008/17)

(2008/893/EC)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty establishing the European Community, and in particular Articles 105 and 106 thereof,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank (hereinafter the 'ESCB Statute'), and in particular Article 12.1 in conjunction with Article 3.1 and Articles 5, 16 and 24 thereof,

Whereas:

(1) Pursuant to Article 12.1 of the ESCB Statute, the Governing Council adopts the guidelines and takes the decisions necessary to ensure the performance of the tasks entrusted to the Eurosystem. The Governing Council accordingly has the power to decide on the organisation of auxiliary activities, such as the procurement of goods and services, that are necessary for the performance of Eurosystem tasks.

(2) European Community procurement legislation allows for the joint procurement of goods and services by several contracting authorities. This principle is reflected in Recital 15 to and Article 11 of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts [1], which provide for the use of certain centralised purchasing techniques.

(3) The Eurosystem aims at complying with the principles of cost-efficiency and effectiveness and seeks the best value for money from the procurement of goods and services. The Governing Council considers joint procurement of goods and services to be an instrument to achieve these objectives by exploiting synergies and economies of scale.

(4) By establishing a framework for joint Eurosystem procurement, the European Central Bank (ECB) aims at fostering the participation of the ECB and the national central banks of the Member States that have adopted the euro in such joint procurement.

(5) The Governing Council created a Eurosystem Procurement Coordination Office (EPCO) to coordinate joint procurement. The Governing Council has appointed the Banque centrale du Luxembourg to host EPCO for the period from 1 January 2008 to 31 December 2012.

(6) This Decision is without prejudice to the possibility for the central banks to request EPCO to support them in connection with the procurement of goods and services which fall outside the scope of this Decision.

(7) The national central banks of the Member States that have not yet adopted the euro may have an interest in participating in EPCO's activities as well as in joint tender procedures, which will take place under the same conditions as those applying to the central banks,

HAS DECIDED AS FOLLOWS:

Article 1

Definitions

For the purposes of this Decision:

(a) 'Eurosystem' means the ECB and the national central banks of the Member States that have adopted the euro;

(b) 'Eurosystem tasks' means the tasks entrusted to the Eurosystem according to the Treaty and the ESCB Statute;

(c) 'central bank' means the ECB or the national central bank of a Member State that has adopted the euro;

(d) 'leading central bank' means the central bank responsible for conducting the joint tender procedure;

(e) 'hosting central bank' means the central bank appointed by the Governing Council to host EPCO;

[1] OJ L 134, 30.4.2004, p. 114.

(f) 'EPCO Steering Committee' means the steering committee set up by the Governing Council to steer the activities of EPCO. The EPCO Steering Committee shall be composed of one member from each central bank, to be selected from among staff members at senior level with knowledge and expertise in organisational and strategic issues within their respective institutions and procurement experts. The EPCO Steering Committee shall report via the Executive Board to the Governing Council. The Chairmanship and the Secretariat of the EPCO Steering Committee shall be provided by the ECB;

(g) 'joint tender procedure' means a procedure for the joint procurement of goods and services carried out by the leading central bank for the benefit of the central banks participating in the joint tender procedure.

Article 2

Scope of application

1. This Decision shall apply to the joint procurement by central banks of goods and services which are necessary for the performance of Eurosystem tasks.

2. Participation of central banks in EPCO's activities and in joint tender procedures shall be voluntary.

3. This Decision shall be without prejudice to Guideline ECB/2004/18 of 16 September 2004 on the procurement of euro banknotes ([1]).

Article 3

Eurosystem Procurement Coordination Office

1. EPCO shall carry out all of the following tasks:

(a) facilitate the adoption of best procurement practices within the Eurosystem;

(b) develop the infrastructure (e.g. skills, functional tools, information systems, processes) required for joint procurement;

(c) identify potential cases for joint procurement which fall within or outside the scope of this Decision on the basis of procurement needs that central banks address to EPCO;

(d) prepare and update as necessary an annual procurement plan for joint tender procedures based on the assessment described in point (c);

(e) prepare common requirements in cooperation with the central banks participating in a joint tender procedure;

(f) support the central banks in joint tender procedures;

(g) support the central banks in procurement relating to common projects of the European System of Central Banks, if so requested by the central bank leading the project.

2. The hosting central bank shall provide the material and human resources required for EPCO to perform its tasks in accordance with the budget approved by the Governing Council as set out in paragraph 4.

3. The hosting central bank, in consultation with the EPCO Steering Committee, may adopt rules concerning the internal organisation and administration of EPCO, including a code of conduct for EPCO staff aimed at ensuring the utmost integrity in the performance of their duties.

4. The central banks shall finance EPCO's budget in accordance with the rules adopted by the Governing Council. Prior to the start of the financial year, EPCO shall submit an annual budget proposal to the Governing Council for approval, via the EPCO Steering Committee and the Executive Board.

5. EPCO shall submit an annual report on its activities to the Governing Council, via the EPCO Steering Committee and the Executive Board.

6. EPCO's activities shall be subject to the control of the Internal Auditors Committee in accordance with the rules adopted by the Governing Council. This shall be without prejudice to the control and audit rules that apply to or are adopted by the hosting central bank.

7. The EPCO Steering Committee shall conduct an effectiveness and efficiency evaluation of EPCO's activities five years after EPCO's establishment. Based on this evaluation, the Governing Council shall decide if it is necessary to conduct a selection procedure to choose a new hosting central bank.

Article 4

Joint tender procedures

1. A joint tender procedure shall be deemed necessary for the purpose of this Decision if either: (i) it is reasonable to expect that the joint procurement of goods and services would result in more advantageous purchase conditions in accordance with the principles of cost-efficiency and effectiveness; or (ii) the central banks need to adopt harmonised requirements and standards in relation to such goods and/or services.

([1]) OJ L 320, 21.10.2004, p. 21.

2. After having identified a potential case for a joint procurement, EPCO shall invite the central banks to participate in a joint tender procedure. The central banks shall inform EPCO in good time whether they intend to participate in the joint tender procedure and, if so, communicate their business requirements to EPCO. A central bank may withdraw from participating in a joint procurement prior to the publication of the contract notice.

3. On the basis of an annual procurement plan of joint tender procedures prepared by EPCO, and after consulting with the EPCO Steering Committee, the Governing Council may initiate joint tender procedures and choose the leading central bank(s) from among the central banks participating in the joint tender procedure. The Governing Council shall be provided with each update of the annual procurement plan.

4. The leading central bank shall carry out the joint tender procedure for the benefit of the central banks participating in the joint tender procedure, in accordance with the procurement rules to which the leading central bank is subject. The leading central bank shall, in the contract notice, specify which central banks are participating in the joint tender procedure as well as the structure of the contractual relationships.

5. The leading central bank shall prepare the tender documentation and shall evaluate the applications and tenders in cooperation with EPCO and the other central banks participating in the joint tender procedure.

6. The leading central bank shall carry out the joint tender procedure in the language(s) laid down in the annual procurement plan.

Article 5

Participation of national central banks of the Member States that have not yet adopted the euro

The Governing Council may invite the national central banks of the Member States that have not yet adopted the euro to participate in EPCO's activities and joint tender procedures under the same conditions as those applying to central banks.

Article 6

Final provision

This Decision shall enter into force on 1 December 2008.

Done at Frankfurt am Main, 17 November 2008.

The President of the ECB

Jean-Claude TRICHET

III

(Acts adopted under the EU Treaty)

ACTS ADOPTED UNDER TITLE V OF THE EU TREATY

POLITICAL AND SECURITY COMMITTEE DECISION EUMM/1/2008

of 16 September 2008

appointing the Head of the European Union Monitoring Mission in Georgia (EUMM Georgia)

(2008/894/CFSP)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular the third paragraph of Article 25 thereof,

Having regard to Joint Action 2008/736/CFSP of 15 September 2008 on the European Union Monitoring Mission in Georgia (EUMM Georgia) [1], and in particular Article 10(1) thereof,

Whereas:

(1) Under Article 10(1) of Joint Action 2008/736/CFSP, the Political and Security Committee is authorised, in accordance with Article 25 of the Treaty, to take the relevant decisions for the purposes of political control and strategic direction of EUMM Georgia and in particular to appoint a Head of Mission.

(2) The Secretary-General/High Representative has proposed that Mr Hansjörg HABER be appointed Head of EUMM Georgia,

HAS DECIDED AS FOLLOWS:

Article 1

Mr Hansjörg HABER is hereby appointed Head of the European Union Monitoring Mission in Georgia (EUMM Georgia).

Article 2

This Decision shall take effect on the day of its adoption.

It shall apply until 15 September 2009.

Done at Brussels, 16 September 2008.

For the Political and Security Committee
The Chairperson
C. ROGER

[1] OJ L 248, 17.9.2008, p. 26.

POLITICAL AND SECURITY COMMITTEE DECISION BiH/14/2008

of 21 November 2008

on the appointment of an EU Force Commander for the European Union military operation in Bosnia and Herzegovina

(2008/895/CFSP)

THE POLITICAL AND SECURITY COMMITTEE,

Having regard to the Treaty on European Union, and in particular the third subparagraph of Article 25 thereof,

Having regard to Council Joint Action 2004/570/CFSP of 12 July 2004 on the European Union military operation in Bosnia and Herzegovina [1], and in particular Article 6 thereof,

Whereas:

(1) Pursuant to Article 6 of Joint Action 2004/570/CFSP the Council authorised the Political and Security Committee (PSC) to take further decisions on the appointment of the EU Force Commander.

(2) On 25 September 2007, the PSC adopted Decision BiH/11/2007 [2] appointing Major General Ignacio MARTÍN VILLALAÍN as EU Force Commander for the European Union military operation in Bosnia and Herzegovina.

(3) The EU Operation Commander has recommended the appointment of Major General Stefano CASTAGNOTTO as the new EU Force Commander for the European Union military operation in Bosnia and Herzegovina.

(4) The EU Military Committee has supported the recommendation.

(5) In conformity with Article 6 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark does not participate in the elaboration and implementation of decisions and actions of the European Union which have defence implications.

(6) The Copenhagen European Council adopted on 12 and 13 December 2002 a Declaration stating that the 'Berlin plus' arrangements and the implementation thereof will apply only to those EU Member States which are also either NATO members or parties to the 'Partnership for Peace', and which have consequently concluded bilateral security agreements with NATO,

HAS DECIDED AS FOLLOWS:

Article 1

Major General Stefano CASTAGNOTTO is hereby appointed EU Force Commander for the European Union military operation in Bosnia and Herzegovina.

Article 2

This Decision shall take effect on 4 December 2008.

Done at Brussels, 21 November 2008.

For the Political and Security Committee
The Chairperson
C. ROGER

[1] OJ L 252, 28.7.2004, p. 10.
[2] OJ L 288, 6.11.2007, p. 60.